

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-TWO

—
H.P. 1327 - L.D. 1776

An Act To Allow Pharmacists To Dispense an Emergency Supply of Chronic Maintenance Drugs

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 24-A MRSA §4317-E is enacted to read:

§4317-E. Coverage for emergency supply of chronic maintenance drugs

1. Definition. As used in this section, unless the context otherwise indicates, "chronic maintenance drug" has the same meaning as in Title 32, section 13786-F, subsection 1.

2. Coverage required. A carrier offering a health plan in this State must make available coverage for an emergency supply of a chronic maintenance drug dispensed pursuant to Title 32, section 13786-F in the same manner as coverage for other drugs under the health plan. A carrier may impose any deductible, copayment, coinsurance or other cost-sharing requirement for the chronic maintenance drug as long as the amount of the deductible, copayment, coinsurance or other cost-sharing requirement is applied in the same manner as if the chronic maintenance drug were dispensed as prescribed by a provider.

3. Application. This section does not apply to a health plan offered for use with a health savings account unless the federal Internal Revenue Service determines that the benefits required by this section are permissible benefits in a high deductible health plan as defined in the federal Internal Revenue Code, Section 223(c)(2).

Sec. 2. 32 MRSA §13786-F is enacted to read:

§13786-F. Dispensing of emergency supplies of chronic maintenance drug

1. Definition. For the purposes of this section, "chronic maintenance drug" means a medication prescribed to treat a chronic, long-term condition and that is taken on a regular, recurring basis.

2. Emergency supply. A pharmacist may dispense an emergency supply of a chronic maintenance drug without a current, valid prescription from a practitioner, subject to the following requirements:

A. The pharmacy at which the pharmacist is practicing has a record of a prescription for the chronic maintenance drug in the name of the patient who is requesting the emergency supply, including the amount of the chronic maintenance drug dispensed as provided in the most recent prescription or the standard unit of dispensing for the chronic maintenance drug, and the record of that prescription for the chronic maintenance drug does not include a notation from a practitioner that no emergency supply is permitted;

B. The pharmacist attempts but is unable to obtain authorization to refill the prescription described in paragraph A from the practitioner who issued the prescription or another practitioner responsible for the patient's care;

C. In the pharmacist's professional judgment, the chronic maintenance drug is essential to sustain the life of the patient or to continue therapy for a chronic condition of the patient and failure to dispense the chronic maintenance drug could reasonably produce undesirable health consequences or cause physical or mental discomfort;

D. Except as provided in this subsection, the amount of the chronic maintenance drug dispensed does not exceed a 30-day supply as provided in the prescription or, if the standard unit of dispensing for the chronic maintenance drug exceeds a 30-day supply, the amount of the chronic maintenance drug dispensed does not exceed the smallest standard unit of dispensing;

E. With respect to a chronic maintenance drug that is a controlled substance included in Schedule III or IV of 21 United States Code, Section 812 or 21 Code of Federal Regulations, Section 1308, the amount of the chronic maintenance drug dispensed does not exceed a 7-day supply;

F. The chronic maintenance drug is not a controlled substance included in Schedule I or II of 21 United States Code, Section 812 or 21 Code of Federal Regulations, Section 1308; and

G. The pharmacist has not dispensed the chronic maintenance drug in an emergency supply under this subsection to the same patient more than twice in the preceding 12-month period.

The pharmacist shall exercise professional judgment in determining the amount of the chronic maintenance drug to be dispensed, up to the maximum amount specified in this subsection. The pharmacist shall notify the practitioner who issued the prescription or another practitioner responsible for the patient's care no later than 72 hours after the chronic maintenance drug is dispensed. The pharmacist shall fulfill all documentation and other requirements established by the board when dispensing an emergency supply of a chronic maintenance drug.

3. Rules. The board may adopt rules for determining what constitutes a chronic maintenance drug and what reporting procedures are necessary in dispensing an emergency supply of a chronic maintenance drug. Rules adopted by the board pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.