

CHAPTER 180  
HB 657 - FINAL VERSION

19Mar2019... 0906h  
6Jun2019... 2350-EBA

2019 SESSION

19-0801  
01/03

HOUSE BILL           **657**

AN ACT               relative to prescription drugs under the managed care law.

SPONSORS:       Rep. Butler, Carr. 7; Rep. Marsh, Carr. 8; Rep. Knirk, Carr. 3; Rep. Hennessey,  
Graf. 1; Sen. Sherman, Dist 24

COMMITTEE:       Commerce and Consumer Affairs

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AMENDED ANALYSIS

This bill clarifies the law regarding prescription drugs under the managed care law.

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Explanation:       Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Nineteen*

AN ACT                   relative to prescription drugs under the managed care law.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           180:1 Managed Care Law; Prescription Drugs. Amend RSA 420-J:7-b, II through III to read as  
2 follows:

3           II. Every health benefit plan that provides prescription drug benefits shall maintain an  
4 expeditious exception process, not to exceed 48 hours, by which covered persons may obtain coverage  
5 for a medically necessary nonformulary prescription drug ***or for a nonformulary prescription***  
6 ***drug that was available during the previous 12 months.*** The exception process shall begin  
7 when the prescribing provider has submitted a request with a clinical rationale for the exception to  
8 the health benefit plan. ***The exception process shall also begin when a covered person has***  
9 ***submitted a non-clinical request for access to a drug approved by the federal Food and***  
10 ***Drug Administration for treating a specific condition when such drug was available on the***  
11 ***formulary during the previous 12 months.*** A prescription that requires an exception for  
12 coverage shall be considered approved if the exception process exceeds 48 hours.

13           II-a. No health benefit plan that provides prescription drug benefits and establishes the  
14 specific sequence in which prescription drugs for a medical condition are to be prescribed shall  
15 require failure on the same medication on more than one occasion for patients continuously enrolled  
16 in the plan. Nothing in this section shall be construed to prevent a health care provider from  
17 prescribing a medication to the same patient on more than one occasion, when he or she determines  
18 it is medically appropriate.

19           III. Every health plan that provides prescription drug benefits shall [~~notify~~] ***provide***  
20 ***written notice in a conspicuous font and size to*** covered persons affected by deletions to the plan  
21 list or plan formulary, provide an explanation of the exception process by which a covered person can  
22 access nonformulary medically necessary prescription drugs, and provide a toll-free telephone  
23 number through which a covered person can request additional information. For purposes of this  
24 paragraph, covered persons affected by deletions to the plan list or plan formulary shall include  
25 those covered persons for whom the health plan has provided coverage for the deleted prescription  
26 drugs during the 12-month period immediately prior to the deletion. Upon notification to covered  
27 persons, the health benefit plan shall allow at least 45 days before implementation of any formulary  
28 deletions; provided, however, that advance notice shall not be required if the federal Food and Drug  
29 Administration has determined that a prescription drug on the health benefit plan's formulary is

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1 unsafe. *For purposes of this section, “conspicuous font and size” shall mean a font that is*  
2 *at least 12 point in size and in an easily legible font. If a covered person avails himself or*  
3 *herself of the exception process as outlined in 420-J:7-b, II, the medication shall be covered*  
4 *by the health plan until there is a resolution of the exception process.*

5 180:2 Managed Care Law; Prescription Drugs. Amend RSA 420-J:7-b, IX(a) to read as follows:

6 IX.(a) Every health benefit plan that provides prescription drug benefits shall allow its  
7 covered persons to obtain an emergency prescription for up to a 72-hour supply of covered  
8 prescription drugs on the covered person's health benefit plan formulary ***or a prescription drug***  
9 ***that was deleted from the formulary within the last 90 days*** in the event a prescription  
10 requires prior authorization ***or an exception*** by an insurance carrier and the prior authorization ***or***  
11 ***exception*** has neither been approved nor denied and a pharmacist has determined the medication is  
12 essential as provided in RSA 318:47-i. Such reimbursement shall be according to the payment rates  
13 of the provider contract. If authorization ***or exception*** is subsequently denied, the carrier shall  
14 reimburse the pharmacist for the prescription as given based on the pro-rated amount they would  
15 have otherwise received under the terms of the provider contract.

180:3 Effective Date. This act shall take effect 60 days after its passage.

Approved: July 10, 2019

Effective Date: September 08, 2019