



CALIFORNIA
HEALTH BENEFITS REVIEW PROGRAM

June 23, 2010

The Honorable William Monning
Chair, California Assembly Committee on Health
State Capitol, Room 6005
10th and L Streets
Sacramento, CA 95814

The Honorable Elaine Alquist
Chair, California Senate Committee on Health
State Capitol, Room 5108
10th and L Streets
Sacramento, CA 95814

Via E-mail only

Dear Assembly Member Monning and Senator Alquist:

I am writing in response to a query from staff of the Assembly Health Committee regarding Assembly Bill (AB) 1826, which was amended on May 28, 2010.

The California Health Benefits Review Program (CHBRP) submitted *Analysis of Assembly Bill 1826: Pain Prescriptions* on April 16, 2010. The full report is available at: <http://www.chbrp.org/analyses.html>. For the report, CHBRP analyzed the March 15, 2010 version of the bill.

The March 15 version would have prohibited health plans and policies from using fail-first protocols in determining outpatient pharmacy benefit coverage for pain medications. CHBRP uses the term “fail-first protocol” to reference coverage determination by a plan or insurer that requires the enrollee to use an alternative prescription medication or over-the-counter product before making coverage available for a prescribed product. There are a number of different types of fail-first protocols, including those commonly referred to as *step therapy* or *step edit*. Some (but not all) examples of protocols commonly referred to as *prior authorization*, or *generic substitution* contain a fail-first component.

The Assembly Health Committee staff has asked whether CHBRP’s analysis of AB 1826 is still applicable, given the amendments of May 28.

The May 28 amendments would allow the use of one type of fail-first protocol in determining coverage for pain medications, while still prohibiting others. The amended language would allow health plans and insurers to require use of a generic equivalent of a prescribed product (a form of a *generic substitution* protocol that includes a fail-first component) before making coverage available for a prescribed pain control product. The amended language would still prohibit use of all other fail-first protocols in determining coverage of pain medications.

Given the May 28 amended language, significant portions of CHBRP's analysis of AB 1826 would no longer be applicable. The medical effectiveness conclusion stating that there is insufficient evidence linking health outcomes to plan and insurer use of fail-first protocols in determining coverage for pain medications would be unchanged. However, CHBRP's analytic approach, which underlies the cost impact analysis would change. Specifically, the approach for identifying the number of medications on fail-first protocol lists and the number of enrollees affected may need to be modified. Permitted use of one type of fail-first protocol (generic equivalent substitutions) but not others, would have implications for the cost impact analysis; specifically, cost impact projections would likely be lower than those presented in CHBRP's April 16 analysis. The extent to which costs estimates would decrease is difficult to estimate since the underlying analytic approach would need to be re-assessed. Estimates of the public health impacts presented in the April 16 analysis would continue to be applicable.

My colleagues and I appreciate the opportunity to address your question, and we are happy to respond to any additional questions you may have. Please feel free to contact me at your convenience.

Thank you.

Sincerely,



Susan Philip, MPP
Director, CHBRP
Division of Health Sciences and Services
University of California, Office of the President

cc: Assembly Member Jared Huffman, Author of Assembly Bill 1826
Assembly Member John Pérez, Speaker of the Assembly
Senator Darrell Steinberg, President Pro Tem of the Senate
Assembly Member Nathan Fletcher, Vice Chair, Assembly Committee on Health
Assembly Member Felipe Fuentes, Chair, Assembly Committee on Appropriations
Assembly Member Connie Conway, Vice Chair, Assembly Committee on Appropriations
Senator Tony Strickland, Vice Chair, Senate Committee on Health
Senator Christine Kehoe, Chair, Senate Committee on Appropriations
Senator Dave Cox, Vice Chair, Senate Committee on Appropriations
Senator Ron Calderon, Chair, Senate Committee on Banking, Finance, and Insurance
Senator Dave Cogdill, Vice Chair, Senate Committee on Banking, Finance, and Insurance
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