# Ohio Legislative Service Commission

**Bill Analysis**



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# Sub. H.B. 116

131st General Assembly

(As Reported by H. Health & Aging)

**Reps.** Brown and Ginter, Becker, Kuhns, Kraus, Lepore-Hagan, Huffman, Barnes, Bishoff, Duffey, Ramos

## BILL SUMMARY


- Requires that certain health insurers and the Medicaid program provide coverage for medication synchronization, which allows drugs that are dispensed for chronic diseases or conditions to be obtained on the same date each month.
- Authorizes a pharmacist to dispense a drug in a manner that varies from the drug's prescription for the purpose of medication synchronization.


## CONTENT AND OPERATION

### Coverage for medication synchronization

The bill requires certain health insurers and the Medicaid program, including Medicaid managed care organizations, to provide coverage for medication synchronization, if specified conditions are met.[1] "Medication synchronization" is defined by the bill as "a pharmacy service that synchronizes the filling or refilling of prescriptions in a manner that allows the dispensed drugs to be obtained on the same date each month."

#### Implementation of coverage

The bill applies to all of the following types of health insurers: health insuring corporations, sickness and accident insurers, multiple employer welfare arrangements, and public employee benefit plans. In the case of these insurers, the bill governs

[1] R.C. 1739.05, 1751.68, 3923.602, 5164.7511, and 5167.12.

policies, contracts, agreements, arrangements, or plans issued, created, delivered, renewed, established, or modified in Ohio on or after January 1, 2016.[2]

The bill does not apply to health insurance that is part of employee benefits offered by private employers that self-insure their benefit programs. These programs are generally precluded from state regulation by the federal Employee Retirement Income Security Act (ERISA) (see "**ERISA**," below).

## Private insurers and public employee benefit plans

### Conditions

Under the bill, an insurance policy, contract, agreement, arrangement, or plan must provide for medication synchronization if all of the following conditions are met:

(1) The policy, contract, agreement, arrangement, or plan provides prescription drug coverage;

(2) The individual who is insured (the "insured") elects to participate in medication synchronization;

(3) The insured, the prescriber, and a network pharmacist agree that medication synchronization would be in the best interest of the insured;

(4) The prescription drug is eligible for synchronization.

In order to be eligible, a drug must meet all of the following requirements:

(1) Be covered by the policy, contract, agreement, arrangement, or plan;

(2) Be prescribed for the treatment and management of a chronic disease or condition and be subject to refills;

(3) Satisfy all relevant prior authorization criteria;

(4) Not have quantity limits, dose optimization criteria, or other requirements that would be violated if synchronized;

(5) Not have special handling or sourcing needs, as determined by the policy, contract, agreement, arrangement, or plan, that require a single, designated pharmacy to fill or refill the prescription;

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[2] Section 3.

(6) Be formulated so that the quantity or amount dispensed can be effectively divided in order to achieve synchronization;

(7) Not be a schedule II controlled substance, opiate, or benzodiazepine.

### Achieving synchronization

To provide for medication synchronization, a policy, contract, agreement, arrangement, or plan must authorize coverage of a prescription drug subject to medication synchronization when the drug is dispensed in a quantity or amount that is less than a 30-day supply. The bill, however, limits the dispensing of less than a 30-day supply to a single occurrence for each drug subject to synchronization, unless any of the following occur:

(1) The prescriber changes the dosage or frequency of administration of a drug subject to synchronization;

(2) The prescriber prescribes a different drug.

### Cost-sharing

The bill specifies that a policy, contract, agreement, arrangement, or plan must permit and apply a prorated daily cost-sharing rate for a supply of a prescription drug subject to medication synchronization that is dispensed at a network pharmacy. The bill defines "cost-sharing" as the cost to an insured under a policy, contract, agreement, arrangement, or plan according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements imposed by the policy, contract, agreement, arrangement, or plan.

The bill further specifies that it does not require a policy, contract, agreement, arrangement, or plan to waive any cost-sharing in its entirety.

### Dispensing fees

Under the bill, a policy, contract, agreement, arrangement, or plan cannot use payment structures that incorporate dispensing fees that are determined by calculating the days' supply of drugs dispensed. Dispensing fees must be determined exclusively on the total number of prescriptions that are filled or refilled.

### Incentives not required

The bill specifies that a private health insurer or public employee benefit plan is not required to provide to a network pharmacy or pharmacist any monetary or other financial incentive for the purpose of encouraging the pharmacy or pharmacist to recommend medication synchronization to an insured.

### Applicability of mandated benefits legislation

The bill exempts its requirements regarding health insurer coverage of medication synchronization from an existing law that could prevent the requirements from being applied until a review by the Superintendent of Insurance has been conducted with respect to mandated health benefits.[3] Under current law, legislation mandating health benefits cannot be applied to any health benefits arrangement after the legislation is enacted unless the Superintendent holds a public hearing and determines that it can be applied fully and equally in all respects to (1) employee benefits plans that are subject to ERISA and (2) employee benefit plans established or modified by the state or its political subdivisions.[4] Under the bill, the coverage of medication synchronization is applicable and the Superintendent's hearing and determination are not required even if the bill's provisions are considered mandated benefits.

### ERISA

ERISA is a comprehensive federal statute governing the administration of employee benefit plans. ERISA generally precludes state regulation of benefits offered by private employers that self-insure their benefit programs. Larger employers frequently choose to establish their own health insurance plans for their employees in lieu of purchasing coverage from a sickness and accident insurer or health insuring corporation.

## Medicaid and Medicaid managed care organizations

### Conditions

With respect to prescribed drugs, the Medicaid program, including Medicaid managed care organizations under contract with the Ohio Department of Medicaid to provide or arrange for the provision of health care services to Medicaid recipients, must allow a pharmacy provider to engage in medication synchronization if all of the following apply:

(1) The Medicaid recipient is being treated for a chronic disease or condition;

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[3] R.C. 1739.05, 1751.68(B), and 3923.602(B).

[4] R.C. 3901.71.

(2) The drug subject to synchronization is not a schedule II controlled substance, opiate, or benzodiazepine;

(3) The Medicaid recipient, the prescriber, and a pharmacist of the pharmacy provider agree that medication synchronization is in the recipient's best interest.[5]

### Cost-sharing charges

The bill requires that the Medicaid program and a Medicaid managed care organization prorate any cost-sharing charges that apply in the case of a prescribed drug, if less than a 30-day supply of the drug is dispensed by a pharmacy provider to the recipient to achieve medication synchronization.

### Dispensing fees

Under the bill, the Medicaid program and a Medicaid managed care organization must determine dispensing fees exclusively on the total number of prescriptions filled or refilled. The bill prohibits the use of payment structures incorporating prorated dispensing fees that are determined by calculating the days' supply of drugs dispensed.[6]

## Pharmacists

The bill authorizes a pharmacist to dispense a drug in a manner that varies from the drug's prescription by dispensing a quantity or amount that is less than a 30-day supply, if the pharmacist's action is taken solely for the purpose of medication synchronization.[7]

## HISTORY

| ACTION | DATE |
|---|---|
| Introduced | 03-11-15 |
| Reported, H. Health & Aging | 06-24-15 |

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[5] R.C. 5164.01, 5164.7511, 5167.01, and 5167.12.

[6] R.C. 5164.753.

[7] R.C. 4729.20.