

# WEST VIRGINIA STEP THERAPY LAW

## A Fact Sheet



### WHAT IS STEP THERAPY?

Step therapy, also known as “fail first,” are policies that require patients to try and fail on alternative treatments before the health plan will cover the originally prescribed treatment.

Health plans implement these policies under the justification that these policies result in cost-savings for the plan.<sup>1</sup> However, while these policies may decrease health plan costs in the short-term, in the long-term these policies can increase health care costs.<sup>2</sup>

### WHY ARE STEP THERAPY POLICIES HARMFUL?

Step therapy policies can be unethical and inconsistent with sound scientific and clinical evidence, resulting in interference with the practitioner-patient relationship and can result in significant delays in access to prescribed treatments.<sup>3</sup> Each patient has a unique medical history and background requiring personalized and individualized care.<sup>4</sup> This is why health care providers, not health plans, are best positioned to determine what treatments are most effective for each patient.<sup>5</sup> Certain treatments may be inappropriate for a particular patient due to a variety of considerations such as lack of efficacy, lack of therapeutic equivalence, or clinical characteristics unique to the patient that necessitate one treatment over another.<sup>6</sup> The time that the patient spends trying and failing on the alternative treatment could cause the patient’s condition to progress or relapse.<sup>7</sup>

# HOW DID WEST VIRGINIA RESPOND?

Recognizing the need to protect prompt access to patient's treatments, West Virginia passed step-therapy reform in 2017.<sup>8</sup> Effective June 21, 2017, the new law requires health plans to include certain exceptions within a plan's step therapy policy and develop a clear and convenient process to request an exemption from a step therapy protocol.<sup>9,10</sup>

## When must a health benefit plan grant a step therapy exemption?

A patient is entitled to an exemption from a step-therapy protocol when:<sup>11</sup>

1. The drug is contraindicated or will likely cause an adverse reaction;
2. The required drug is expected to be ineffective;
3. The patient previously tried and failed on the drug or one in the same pharmacologic class;
4. It is not in the best interest of the patient; or
5. The patient is currently stable on a prescription drug selected by their health care provider.

## What type of health plans does the law apply to?

The law applies to all state regulated health insurers authorized to do business in the state, such as individual and small group plans, and employer sponsored plans that are fully funded.<sup>12</sup> The law also applies to any pharmacy benefit manager (PBM) that administers a fully funded or self-funded health plan.<sup>13</sup> The law does not apply to plans issued under the state Medicaid program, the federal Medicare program, or an ERISA self-funded health benefit plan.<sup>14</sup>

## How much time does the health benefit plan have to respond to an exemption request?

The law does not provide a specific timeframe, however, health benefit plan issuers must "expeditiously grant" a step therapy override determination if an exemption is met.<sup>15</sup>

# WHERE CAN YOU GET MORE INFORMATION?

Visit the [West Virginia Offices of Insurance Commissioner](#).

Read the full [statute](#).



## REFERENCES

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4. Id.
5. Patients Rising, Step Therapy: Everything You Need to Know About "Fail First" Insurance Policy, <https://www.patientsrising.org/step-therapy-explained/>.
6. Id.
7. Adrienne Chung, et al., Does A 'One-Size-Fits-All' Formulary Policy Make Sense?, <https://www.healthaffairs.org/doi/10.1377/forefront.20160602.055116/full/>.
8. W. Va. HB 2300, <https://legiscan.com/WV/text/ HB2300/2017>.
9. Id.
10. 33 W. Va. Ins. Code § 15-4o, <https://code.wvlegislature.gov/33-15-40/>.
11. Id.
12. Id.
13. Id.
14. Id.
15. Id.



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