AIMEDALLIANCE

KNOW YOUR RIGHTS

CONSUMERS:

BEWARE OF HEALTH INSURERS' LIMITED FORMULARIES

Dear Patients, Caregivers, and Health Care Providers:

Several health plans have begun to release their proposed formularies for 2024, and many of these health plans proposed formularies only cover the minimum number of drugs in a class or category which may mean only two or three medications available to treat certain complex and chronic conditions. These limited formularies can leave consumers without access to their necessary treatments. Therefore, prior to selecting a health plan for 2024, we strongly encourage you to review the plan's formulary to determine if your medication is covered.

For those consumers who have limited plan choices, and are subject to limited formularies, we encourage you to know your rights and vigorously advocate for the coverage to which you are entitled. Under the Patient Protection and Affordable Care Act (ACA), health plans are required to provide a process to plan enrollees to ensure they can receive access to non-formulary treatments that are deemed medically necessary.

Nonetheless, it has come to our attention that some patients are experiencing difficulties accessing their treatments via the exception process. There are multiple different health plans imposing barriers relating to the exception process, resulting in patients across conditions, diseases, and disorders being impacted.

Therefore, we are encouraging patients, caregivers, and providers to be clear when requesting coverage through the exception process that you are asking for a ***medical necessity exception.*** To help facilitate this conversation with the health plan, we have drafted the language below to help ensure the health plan provides the appropriate assessments and determination:

Submitting a medical necessity exception request when your health plan does not include the medication you need on its formulary.

Dear [health plan]:

My health care provider has recently prescribed me [name medication and dosage] to treat [include diagnosis]. This medication is necessary for me to manage my condition.

I understand that the prescribed medication is not listed as part of the plan's current formulary. Therefore, I am writing to request coverage of, and access to, [name medication and dosage] under the health plan's ***medical necessity exception*** *process.*

Under 45 CFR § 156.22(c), a "health plan providing essential health benefits must have the following processes in place that allow an enrollee, the enrollee's designee, or the enrollee's prescribing physician (or other prescriber, as appropriate) to request and gain access to clinically appropriate drugs not otherwise covered by the health plan (a request for exception). In the event that an exception request is granted, the plan must treat the excepted drug(s) as an essential health benefit, including by counting any cost-sharing towards the plan's annual limitation on cost-sharing under § 156.130 and when calculating the plan's actuarial value under § 156.135."

The health plan must respond within 72 hours, and if the medication is deemed medically necessary, the plan is required to cover the prescription for the duration of the plan year, including refills.

[Review your health plan documents to identify any specific information that your health plan requires you to include in a medical necessity exception request. Add any relevant information from the plan that relates to the exception process.]

You will be receiving additional information from my health care provider soon. Contact me at [add best contact information] if you need any additional information from me.

Thank you,
[add name]

If you are requesting access to a non-formulary treatment, your health plan may initially deny coverage stating that the requested medication is "a plan exclusion" or "the drug is excluded from the plan's formulary" or "not a covered benefit."

If your health plan uses any of the above language or does not otherwise make a determination as to whether the medication is *medically necessary* you should ask the plan to reconsider your original request immediately.

Dear [health plan]:

*On [add date], I submitted a **medical necessity exception** request for [name medication and dosage], a non-formulary treatment. On [add date] I received a letter stating [add explanation of what the plan letter said regarding denying the request for coverage on a non-medical necessity basis (ie. excluded benefit)]. I am requesting my request for an exception be immediately reconsidered, as the health plan failed to determine whether the medication was **medically necessary** under the plan's terms.*

Under 45 CFR § 156.22(c), a "health plan providing essential health benefits must have the following processes in place that allow an enrollee, the enrollee's designee, or the enrollee's prescribing physician (or other prescriber, as appropriate) to request and gain access to clinically appropriate drugs not otherwise covered by the health plan (a request for exception). In the event that an exception request is granted, the plan must treat the excepted drug(s) as an essential health benefit, including by counting any cost-sharing towards the plan's annual limitation on cost-sharing under § 156.130 and when calculating the plan's actuarial value under § 156.135."

The exception process requires the health plan to determine if my medication is medically necessary. The response dated [add date] fails to meet these requirements.

If I do not receive a response within 72 hours regarding the plan's determination relating to medical necessity, I will immediately file an external appeal to have a third-party address the question of medical necessity.

If you need information from my health care provider that you have not already received, please contact me at [add best contact information].

Thank you,
[add name]

If you have completed these steps and have still not been able to access your medication, immediately file an appeal to your health plan's external appeal entity. This is an independent third-party that will determine if your health plan's denial was appropriate or if the plan is required to cover the medication. To learn more about how to file an external appeal, visit Aimed Alliance's CoverageRights.org and navigate to the information specific to your state.

If you are experiencing challenges with this process or would like to discuss your experience, please contact Aimed Alliance at policy@aimedalliance.org.