

**§ 108A-68.2. Beneficiary lock-in program for certain controlled substances.**

- (a) The following definitions apply in this section:
- (1) Covered substances. – Any controlled substance identified as an opioid or benzodiazepine, excluding benzodiazepine sedative-hypnotics, contained in Article 5 of Chapter 90 of the General Statutes, unless one of the following conditions are met:
    - a. If the Department of Health and Human Services specifically identifies the opioid or benzodiazepine as a substance excluded from coverage by the Medicaid Beneficiary Management Lock-In Program described in its Outpatient Pharmacy Clinical Coverage Policy adopted in accordance with G.S. 108A-54.2, then the opioid or benzodiazepine is not a covered substance under this section.
    - b. If the Department of Health and Human Services specifically identifies a controlled substance contained in Article 5 of Chapter 90 of the General Statutes other than an opioid or benzodiazepine as a controlled substance covered by the Medicaid Beneficiary Management Lock-In Program described in its Outpatient Pharmacy Clinical Coverage Policy adopted in accordance with G.S. 108A-54.2, then the controlled substance is a covered substance under this section.
  - (2) Lock-in program. – A requirement, consistent with 42 C.F.R. § 431.54(e), that restricts the number of prescribers from whom, and the number of pharmacies from which, a Medicaid beneficiary may obtain covered substances.
  - (2a) Medically necessary. – Having medical necessity as determined in accordance with 10A NCAC 25A .0201.
  - (3) Prepaid health plan or PHP. – As defined in G.S. 108D-1.
- (b), (c) Repealed by Session Laws 2021-62, s. 4.4, effective June 29, 2021.
- (d) This section does not apply to any lock-in program for Medicaid beneficiaries who are not enrolled in a Prepaid Health Plan.
- (e) A PHP shall develop a lock-in program for Medicaid beneficiaries who meet any of the following criteria:
- (1) Have filled 10 or more prescriptions for covered substances in a period of two consecutive months when not medically necessary.
  - (2) Have received prescriptions for covered substances from four or more prescribers in a period of two consecutive months when not medically necessary.
  - (3) Repealed by Session Laws 2023-134, s. 9E.23(a1), effective October 3, 2023.
- (f) A lock-in program developed pursuant to subsection (e) of this section shall comply with all of the following:
- (1) A beneficiary shall not be subject to the lock-in program until the PHP has notified the beneficiary in writing that the beneficiary will be subject to the lock-in program and the beneficiary has been provided an opportunity for a hearing.
  - (2) A beneficiary subject to the lock-in program shall be given the opportunity to select a single prescriber and a single pharmacy from a list of prescribers and pharmacies in the PHP's provider network. In accordance with 42 C.F.R. § 431.54(e), the beneficiary may be allowed to select up to two prescribers and two pharmacies when medically necessary as designated by the State. For any beneficiary who fails to select prescribers or pharmacies, the PHP shall use algorithmic guidelines to assign the beneficiary prescribers or pharmacies enrolled in the PHP's network.

(3) A beneficiary shall not be required to use the prescribers or pharmacies selected for the lock-in program to obtain prescriptions drugs covered by the Medicaid program or the PHP that are not covered substances.

(f1) If a PHP finds that a beneficiary has utilized Medicaid services at a frequency or amount that is not medically necessary, as determined in accordance with utilization guidelines established by the State, the restrictions in subsection (f) of this section may be imposed for a period of two years.

(g) A PHP's use of a lock-in program developed pursuant to subsection (e) of this section shall not constitute a violation of the terms of a contract between the PHP and the Department that relate to a beneficiary's ability to utilize a prescriber or pharmacy of choice. (2018-49, s. 3(a); 2021-62, s. 4.4; 2022-74, s. 9D.15(z); 2023-134, s. 9E.23(a1).)