

# Transplant Medication

The Act establishes conditions under which a health insurance policy or health service plan can require prescribing physicians to substitute immunosuppressant drugs for organ transplant patients that differ from the drugs the physicians originally prescribed for those patients. The Act requires that at least sixty days prior to making any formulary change that alters the terms of coverage for a patient receiving immunosuppressant drugs or discontinues coverage for a prescribed immunosuppressant drug that a patient is receiving, a policy or plan sponsor must, to the extent possible, notify the prescribing physician and the patient, or the parent or guardian if the patient is a child, or the spouse of a patient who is authorized to consent to the treatment of the patient. The notification must be in writing and disclose the formulary change, indicate that the prescribing physician may initiate an appeal, and include information about the procedure for the prescribing physician to initiate the policy or plan sponsor's appeal process.

The Act applies solely to cases of immunosuppressive therapy when an immunosuppressant drug has been prescribed to a patient to prevent the rejection of transplanted organs and tissues and a prescribing physician has indicated on a prescription "may not substitute." This Act does not apply to medication orders issued for immunosuppressant drugs for any in-patient care in a licensed hospital.

Submitted as:

Illinois

[Public Act 096-0766](#)

Status: Enacted into law in 2009.

## Suggested State Legislation

(Title, enacting clause, etc.)

1           Section 1. [*Short Title.*] This Act shall be cited as "The Organ Transplant Medication  
2 Act."

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4           Section 2. [*Definitions.*] As used in this Act:

5           (1) "Health insurance policy or health care service plan" means any policy of health or  
6 accident insurance subject to the provisions of [insert citations].

7           (2) "Immunosuppressant drugs" mean drugs that are used in immunosuppressive therapy  
8 to inhibit or prevent the activity of the immune system. "Immunosuppressant drugs" are used  
9 clinically to prevent the rejection of transplanted organs and tissues. "Immunosuppressant drugs"  
10 do not include drugs for the treatment of autoimmune diseases or diseases that are most likely of  
11 autoimmune origin.

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13           Section 3. [*Applicability.*] This Act shall apply solely to cases of immunosuppressive  
14 therapy when an immunosuppressant drug has been prescribed to a patient to prevent the  
15 rejection of transplanted organs and tissues and as set forth in Section 4 of this Act, a prescribing  
16 physician has indicated on a prescription "may not substitute." This Act does not apply to  
17 medication orders issued for immunosuppressant drugs for any in-patient care in a licensed  
18 hospital.

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20           Section 4. [*Formulary Changes Concerning Immunosuppressant Drugs.*]

21 (A) In accordance with [insert citation], when a prescribing physician has indicated on a  
22 prescription “may not substitute,” a health insurance policy or health care service plan that  
23 covers immunosuppressant drugs may not require or cause a pharmacist to interchange another  
24 immunosuppressant drug or formulation issued on behalf of a person to inhibit or prevent the  
25 activity of the immune system of a patient to prevent the rejection of transplanted organs and  
26 tissues without notification and the documented consent of the prescribing physician and the  
27 patient, or the parent or guardian if the patient is a child, or the spouse of a patient who is  
28 authorized to consent to the treatment of the person.

29 (B) Except as provided by this Section, patient co-payments, deductibles, or other charges  
30 for the prescribed drug for which another immunosuppressant drug or formulation is not  
31 interchanged shall remain the same for the enrollment period established by the health insurance  
32 policy or plan.

33 (C) At least [60] days prior to making any formulary change that alters the terms of  
34 coverage for a patient receiving immunosuppressant drugs or discontinues coverage for a  
35 prescribed immunosuppressant drug that a patient is receiving, a policy or plan sponsor must, to  
36 the extent possible, notify the prescribing physician and the patient, or the parent or guardian if  
37 the patient is a child, or the spouse of a patient who is authorized to consent to the treatment of  
38 the patient. The notification shall be in writing and shall disclose the formulary change, indicate  
39 that the prescribing physician may initiate an appeal, and include information regarding the  
40 procedure for the prescribing physician to initiate the policy or plan sponsor’s appeal process.

41 (D) As an alternative to providing written notice, a policy or plan sponsor may provide  
42 the notice electronically if, and only if, the patient affirmatively elects to receive such notice  
43 electronically. The notification shall disclose the formulary change, indicate that the prescribing  
44 physician may initiate an appeal, and include information regarding the procedure for the  
45 prescribing physician to initiate the policy or plan sponsor's appeal process.

46 (E) At the time a patient requests a refill of the immunosuppressant drug, a policy or plan  
47 sponsor may provide the patient with the written notification required under subsection (C) of  
48 this Section along with a 60-day supply of the immunosuppressant drug under the same terms as  
49 previously allowed.

50 (F) Nothing in this Section shall prohibit insurers or pharmacy benefit managers from  
51 using managed pharmacy care tools, including, but not limited to, formulary tiers, generic  
52 substitution, therapeutic interchange, prior authorization, or step therapy, so long as an exception  
53 process is in place allowing the prescriber to petition for coverage of a non-preferred drug if  
54 sufficient clinical reasons justify an exception to the normal protocol.

55  
56 Section 5. [*Severability.*] [Insert severability clause.]

57  
58 Section 6. [*Repealer.*] [Insert repealer clause.]

59  
60 Section 7. [*Effective Date.*] [Insert effective date.]