



132nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2025

Legislative Document

No. 1100

S.P. 460

In Senate, March 18, 2025

An Act to Clarify the Requirements for Accessing Nonformulary Drugs and Drugs Used to Treat Serious Mental Illness

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Received by the Secretary of the Senate on March 14, 2025. Referred to the Committee on Health Coverage, Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BAILEY of York.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 24-A MRSA §4304, sub-§2-C**, as enacted by PL 2021, c. 345, §1, is
3 amended to read:

4 **2-C. Prior authorization of prescription drugs used for assessment and treatment**
5 **of serious mental illness.** Notwithstanding any requirement of this section to the contrary,
6 a carrier shall approve a prior authorization request for medication on the carrier's
7 prescription drug formulary that is prescribed to assess or treat an enrollee's serious mental
8 illness. If a drug shortage makes a formulary drug prescribed to assess or treat an enrollee's
9 serious mental illness unavailable, the carrier shall approve an equivalent nonformulary
10 drug for the period of time that the formulary drug is unavailable. For the purposes of this
11 subsection, "serious mental illness" means a mental disorder, as defined in the most recent
12 edition of the Diagnostic and Statistical Manual of Mental Disorders published by the
13 American Psychiatric Association, that results in serious functional impairment that
14 substantially interferes with or limits one or more major life activities. The superintendent
15 may adopt rules to implement this subsection. Rules adopted pursuant to this subsection
16 are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

17 **Sec. 2. 24-A MRSA §4311, sub-§1-A**, as corrected by RR 2023, c. 2, Pt. A, §38,
18 is amended to read:

19 **1-A. Access to Request for clinically appropriate prescription drugs.** For plan
20 years beginning on or after March 19, 2019, a carrier must allow an enrollee, the enrollee's
21 designee or the person who has issued a valid prescription for the enrollee to request ~~and~~
22 ~~gain access to~~ a clinically appropriate drug not otherwise covered by the health plan. The
23 carrier's process must comply with section 4304 and with this subsection. If the carrier
24 approves a request under this subsection for a drug not otherwise covered by the health
25 plan, the carrier must treat the drug as an essential health benefit, including counting any
26 cost sharing toward the plan's annual limit on cost sharing and including it when calculating
27 the plan's actuarial value.

28 A. The carrier must determine whether it will cover the drug requested and notify the
29 enrollee, the enrollee's designee, if applicable, and the person who has issued the valid
30 prescription for the enrollee of its coverage decision within 72 hours or 2 business days,
31 whichever is less, following receipt of the request. A carrier that grants coverage under
32 this paragraph must provide coverage of the drug for the duration of the prescription,
33 including refills.

34 B. The carrier must have a process by which an expedited review may be requested in
35 exigent circumstances. Exigent circumstances exist when an enrollee is suffering from
36 a health condition that may seriously jeopardize the enrollee's life, health or ability to
37 regain maximum function or when an enrollee is undergoing a current course of
38 treatment using a nonformulary drug. When an expedited review has been requested,
39 the carrier must determine whether it will cover the drug requested and notify the
40 enrollee, the enrollee's designee, if applicable, and the person who has provided a valid
41 prescription for the enrollee of its coverage decision within 24 hours following receipt
42 of the request. A carrier that grants coverage under this paragraph must provide
43 coverage of the drug for the duration of the exigency.

SUMMARY

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This bill clarifies that if a drug shortage causes a formulary drug used for the treatment of serious mental illness to become unavailable, a carrier must approve an equivalent nonformulary drug for the period of time that the formulary drug is unavailable. The bill also eliminates a requirement that an enrollee in a health plan gain access to a clinically appropriate drug not otherwise covered by the health plan.