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Date: (Filing No. H- )

**INSURANCE AND FINANCIAL SERVICES**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
128TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 487, L.D. 696, Bill, “An Act Regarding Insurance and Financial Services”

Amend the bill by striking out the title and substituting the following:

**'An Act To Require Notification of Adverse Changes to Prescription Drug Formularies in Health Plans'**

Amend the bill by striking out everything after the enacting clause and inserting the following:

**'PART A**

**Sec. A-1. 24-A MRSA §4311, sub-§1**, as enacted by PL 1999, c. 742, §19 and affected by §21, is amended to read:

**1. Formulary.** If a health plan provides coverage for prescription drugs but the coverage limits such benefits to drugs included in a formulary, a carrier shall:

A. Ensure participation of participating physicians and pharmacists in the development of the formulary; ~~and~~

B. Provide exceptions to the formulary limitation when a nonformulary alternative is medically indicated, consistent with the utilization review standards in section 4304-2;

C. Provide an enrollee with at least 60 days' written notice of an adverse change to a formulary, except that a carrier may provide less than 60 days' notice when a prescription drug is being removed from the formulary because of concerns about safety. The notice must use a conspicuous font and inform the enrollee of the adverse change to the formulary and advise the enrollee to consult with the enrollee's provider about the change. For the purposes of this paragraph, "adverse change to a formulary" means a change that removes a drug currently prescribed for that enrollee from the formulary applicable to the enrollee's health plan or a change that moves the prescribed drug to a tier with a higher cost-sharing requirement if the carrier uses a formulary with tiers;

**COMMITTEE AMENDMENT**



1 drug benefits for the group health plan offered to state employees and other eligible  
2 persons pursuant to the Maine Revised Statutes, Title 5, section 285 shall report quarterly  
3 no less than 30 days following the end of each quarter to the director of employee health  
4 and benefits within the Department of Administrative and Financial Services, Bureau of  
5 Human Resources on any changes made to any prescription drug formulary between  
6 January 1, 2019 and December 31, 2019. For purposes of this section, a change to a  
7 prescription drug formulary includes the movement of a prescription drug to a tier with  
8 higher cost sharing for that drug or the removal of a prescription drug from the formulary.  
9 The report must be in a form and manner determined by the director and include a list of  
10 formulary changes made by the carrier and the effective date of each formulary change;  
11 the prescription drugs affected by each formulary change by name and manufacturer; the  
12 number of enrollees affected by each formulary change; the expected impact of each  
13 formulary change on cost sharing for affected enrollees; a written explanation of the  
14 reasons for each formulary change; the number of exception requests made by enrollees  
15 with regard to each formulary change; and the number of exceptions granted, denied or  
16 withdrawn with regard to each formulary change. No less than 60 days following the end  
17 of each quarter, the director shall report this data to the joint standing committee of the  
18 Legislature having jurisdiction over insurance and financial services matters. The joint  
19 standing committee of the Legislature having jurisdiction over insurance and financial  
20 services matters may report out legislation related to any report submitted pursuant to this  
21 section to any regular or special session of the 129th Legislature.'

22 **SUMMARY**

23 This amendment replaces the bill.

24 Part A does the following:

25 1. It requires a carrier to provide notice of an adverse change to an enrollee's  
26 prescription drug formulary. At least 60 days' notice is required, except in instances in  
27 which a prescription drug is removed from the formulary because of concerns about  
28 safety. The amendment defines "adverse change to a formulary" as a change that  
29 removes a drug currently prescribed for that enrollee from the formulary applicable to the  
30 enrollee's health plan or a change that moves the prescribed drug to a tier with a higher  
31 cost-sharing requirement if the carrier uses a formulary with tiers.

32 2. It requires a carrier to provide an enrollee with notice of the enrollee's right to  
33 request an exception to a formulary limitation when a prescription drug is removed from  
34 the formulary and to provide a form for an enrollee to use to make an exception request.

35 3. It requires a carrier to honor any prior authorization for a drug that has been  
36 removed from a formulary until the approval expires, as long as the enrollee retains  
37 coverage under the same plan.

38 4. It provides that when a drug is removed from a formulary and if an exception  
39 request is submitted prior to the effective date of the change, a carrier shall continue to  
40 provide coverage for that drug until the carrier has rendered a decision on an enrollee's  
41 request for an exception to the formulary limitation. This requirement does not apply to  
42 drugs removed from the formulary because of concerns about safety.

