



Testimony of Anthem Blue Cross and Blue Shield
In Opposition to L.D. 107,
“An Act to Require Health Insurance Coverage for Biomarker Testing”
January 28, 2025

Good afternoon, Senator Bailey, Representative Mathieson, and Members of the Health Coverage, Insurance, and Financial Services Committee. My name is Kristine Ossenfort, and I am the Senior Government Relations Director for Anthem Blue Cross and Blue Shield in South Portland, Maine. I appear before you this morning to testify in opposition to L.D. 107, “An Act to Require Health Insurance Coverage for Biomarker Testing.”

L.D. 107 (in sections 2-6) would require health insurance carriers to provide coverage for biomarker testing for the purposes of diagnosis, treatment, appropriate management, or ongoing monitoring of a disease or condition beginning January 1, 2026. A similar bill was considered by the 131st Legislature.

Anthem provides coverage for certain evidence-based biomarker tests consistent with our medical necessity guidelines. L.D. 107 would require coverage of all biomarker tests, regardless of whether they are evidence-based and supported by, peer reviewed literature, or whether there it actually serves to improve health outcomes. This can lead to unnecessary testing, which in turn leads to higher costs and higher premiums.

Our concerns with the bill include the following:

- 1. The coverage requirements do not require that the test be medically necessary**
- 2. The scope of what must be covered is overly broad and does not require that the test be supported by peer-reviewed medical literature**

Health plans have processes in place for determining medical necessity. Plans consider biomarkers “medically necessary” when reasonable evidence supports their clinical

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utility. Plans should be permitted to use medical necessity to determine the clinical utility of biomarker tests. The use of biomarker testing must be based on peer-reviewed medical literature and proven to materially improve net health outcomes. Not all “evidence” is appropriate to use as the basis for determining medical necessity of biomarker testing.

For example, it is important to note that Medicare LCDs vary widely among jurisdictions throughout the country. In addition, clinical practice guidelines and consensus statements are not supported by peer-reviewed medical literature and are often developed by committees, many of which have members with conflicts of interest. Similarly, many specialty societies, which influence clinical practice guidelines, sometimes have close ties to patient advocacy groups, which are often heavily funded by the biopharmaceutical industry.

A blanket requirement to cover biomarker testing based on low levels of evidence would require carriers to apply standards that use a much lower standard for evidentiary assessment. Consensus statements, clinical practice guidelines and Medicare Local Coverage Determinations (“LCDs”) could require plans to cover an incredibly large and diverse number of tests that are not supported by evidence and could lead to higher costs and patient harm through unnecessary testing, treatment, and other unintended downstream effects.

A similar proposal was subject to a mandated benefit review by the Bureau of Insurance in the 131st Legislature and the Bureau estimated a cost increase ranging from \$0.03 to \$0.44 per member per month. While this may seem small, it is in addition to increases in medical trend and medical cost. Furthermore, as this Committee is aware, this requirement would not apply to plans outside the jurisdiction of the Bureau of Insurance, including plans issued outside of Maine, self-funded plans, and Medicare.

Finally, we would note that Bureau of Insurance Rule 850 governs response times for utilization review. The times provided for in L.D. 107 are similar to, but not entirely consistent with, the requirements contained in Rule 850. If L.D. 107 is to move forward, it should refer to the time frames required under Rule 850 in order to maintain consistency with the response time requirements applicable to other services.

We strongly urge you to vote “ought not to pass” on L.D. 107. Thank you, and I would be happy to answer any questions you may have either now or at your work session.