

**LD 523, An Act Regarding Prior Authorizations for Prescription Drugs and
LD 617, An Act Concerning Prior Authorizations for Prescription Drugs**

SUMMARY:

These bills are duplicates and propose to do the following.

1. Require carriers to provide by January 1, 2023 at least one electronic tool to facilitate the availability of certain prescription drug benefit information in real time at the point of prescribing and when submitting prior authorization requests for prescription drugs. The bills also permit the Superintendent of Insurance to grant a waiver from the requirements for good cause.
2. Require the Department of Professional and Financial Regulation, Bureau of Insurance to monitor compliance by carriers with the requirements of law related to electronic transmission of prior authorization requests for prescription drugs and to submit a report to the joint standing committee of the Legislature having jurisdiction over health coverage and insurance matters on the status of that compliance by June 1, 2023.

**LD 523, An Act Regarding Prior Authorizations for Prescription Drugs and
LD 617, An Act Concerning Prior Authorizations for Prescription Drugs**

CURRENT LAW:

Under current law in [24-A MRS §4304](#), health insurance carriers must meet the following requirements related to prior authorization requests.

- A carrier must respond to a prior authorization request within 72 hours or 2 business days, whichever is less, and, if the carrier requests additional information or requires outside consultation, the same time frame for a response applies. If a carrier fails to respond within the required time frames, the law states that a request for prior authorization is granted.
- A carrier may not require prior authorization for medication-assisted treatment for opioid use disorder for the prescription of at least one drug for each type of medication used in medication-assisted treatment, except that a carrier may not require prior authorization for any medication-assisted treatment for opioid use disorder for a pregnant woman.
- The prior authorization standards used by a carrier must be clear and readily available; a provider must make best efforts to provide all information necessary to evaluate a request, and the carrier must make best efforts to limit requests for additional information
- Beginning no later than by January 1, 2020, a carrier must accept and respond to prior authorization requests for prescription drugs through a secure electronic transmission using standards adopted by a national council for prescription drug programs for electronic prescribing transactions.

LD 523, An Act Regarding Prior Authorizations for Prescription Drugs and LD 617, An Act Concerning Prior Authorizations for Prescription Drugs

LEGISLATIVE HISTORY:

LD 523 and LD 617 reflect language unanimously supported by HCIFS Committee in 129th Legislature in LD 2106, An Act Regarding Prior Authorizations for Prescription Drugs. LD 2106 was voted OTP-A by HCIFS and reported out of committee, but was not taken up in any special session before termination of the 129th Legislature. The language was developed with input of stakeholders.

ISSUES FOR CONSIDERATION:

1. The sponsor of LD 523, Sen. Claxton, has indicated an interest in making further changes to the language.
2. Federal rules now require Medicare Part D plans to implement electronic transmission for real-time prior authorization of prescription drugs as of January 1, 2022. The rule was finalized February 1, 2021; Medicare Part D plans may use the standard identified in the rule for electronic prior authorization beginning January 1, 2021. National standards have been developed and integrated with technology to allow health insurance carriers to provide real-time responses to prior authorization requests for prescriptions.
3. Northern Light Health and other provider representatives suggested language be amended to require carriers to integrate with all provider platforms for electronic medical records. Committee members asked for more information from providers about current systems used for electronic medical records. As drafted, the bills require carriers to make available to a provider in real time at the point of prescribing one or more electronic benefit tools that are capable of integrating with **at least one** electronic prescribing system or electronic medical record system.

**LD 523, An Act Regarding Prior Authorizations for Prescription Drugs and
LD 617, An Act Concerning Prior Authorizations for Prescription Drugs**

ISSUES FOR CONSIDERATION (cont'd):

4. As drafted, the bill only applies to real-time electronic prior authorization for prescription drugs. The requirements do not apply to prior authorization requests for other medical services under a health plan.
5. In testimony neither for nor against, the Bureau of Insurance noted that it has authority under current law to investigate violations of the Insurance Code and enforce them. See 24-A MRSA §12-A. bills have requirements for BOI to monitor compliance with the requirements and report back to the Legislature.
6. If committee moves forward, only one vehicle is needed.

FISCAL INFORMATION:

Not yet determined, although fiscal information for LD 2106 considered last session indicated any additional costs to the Department of Professional and Financial Regulation, Bureau of Insurance, to monitor compliance were expected to be minor and could be absorbed within existing budgeted resources.