



Janet T. Mills
Governor

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
BUREAU OF INSURANCE
34 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0034

Eric A. Cioppa
Superintendent

April 8, 2021

Senator Heather Sanborn, Chair
Representative Denise Tepler, Chair
Joint Standing Committee on Health Coverage, Insurance and Financial Services
100 State House Station
Augusta, ME 04333-0100

Re: L.D. 1115: An Act To Improve Access to HIV Prevention Medications

Dear Senator Sanborn, Representative Tepler, and Members of the Committee:

The Bureau of Insurance takes no position on LD 1115. The purpose of this letter is to provide you with background information as it relates to the insurance aspects of this bill referenced under Title 24-A. The bill would require insurance carriers offering health plans in the state to provide coverage for HIV prevention drugs that have been prescribed by a provider for policies issued on or after January 1, 2022. A carrier would not be required to cover all of the therapeutically equivalent drugs as long as the carrier covers at least one therapeutically equivalent drug at the tier with the lowest cost-sharing requirement on its prescription drug formulary. The bill would also require carriers to cover at least one therapeutically equivalent drug without prior authorization or step therapy requirements.

Beginning in 2014, states were required to defray the costs of all mandates that are included in Qualified Health Plans, unless those mandates are required as part of the essential benefit package. The Affordable Care Act (ACA) directs states to make payments either to the individual enrollee or to the insurer.¹ Generally, any mandate adopted by a state after December 31, 2011 has been excluded from the essential benefit package by federal regulators and thus is subject to the requirement for the state to defray the cost. However, if this bill is determined by federal regulators to be the expansion of an existing mandate rather than a new mandate, it is our understanding that the state would not have to defray the cost.

¹ See 45 CFR § 155.170, implementing ACA § 1311(d)(3)(B).



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The Bureau takes no position on the bill's limitation on prior authorization requirements. Notably, a similar provision for medication-assisted treatment for opioid use disorder was added to the Insurance Code in 2019. *See* [24-A M.R.S. § 4304\(2-A\)](#).

I hope this information is useful to the Committee. Please let me know if I can provide any further assistance.

Sincerely,



Eric A. Cioppa
Superintendent

cc: Senator Heather Sanborn, Sponsor