

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1288

S.P. 419

In Senate, March 11, 2003

An Act To Increase Public Access to the Prior Authorization Process

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator TURNER of Cumberland.
Cosponsored by Representative DUGAY of Cherryfield and
Senators: BRENNAN of Cumberland, MARTIN of Aroostook, WESTON of Waldo,
Representatives: CURLEY of Scarborough, KANE of Saco.

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

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Sec. 1. 22 MRSA §3174-DD is enacted to read:

§3174-DD. Drug Utilization Review Committee

1. Authority. The department has the authority to determine which prescription and over-the-counter drugs are subject to prior authorization and coverage under the MaineCare program.

2. Drug Utilization Review Committee. In order to make determinations regarding which prescription and over-the-counter drugs are subject to prior authorization, the Drug Utilization Review Committee, referred to in this section as "the committee," is established.

A. The committee is composed of an equal number of actively practicing physicians and actively practicing pharmacists, totaling not fewer than 6 individuals. The department shall appoint the members of the committee and establish their terms.

B. Public notice of the date, time and location of all meetings of the committee must be made in accordance with Title 1, section 406 at least 7 days in advance of the meeting. This notice must also include a list of all drugs to be considered for prior authorization at that meeting. The meetings must be considered public proceedings, for purposes of Title 1, chapter 13. Members of the public, including health care providers and drug manufacturers, who are physically present at committee meetings must be granted reasonable opportunity to address the committee prior to any vote.

C. At the conclusion of a meeting pursuant to paragraph B, committee members shall record their vote for each drug on a form to be supplied at each meeting. After adding or deleting a drug from the list of drugs that require prior authorization, the committee shall issue written findings setting forth the evidentiary basis for its decision. These findings must address, without limitation, all relevant clinical data, as well as the likelihood that subjecting a drug to prior authorization will cause adverse medical results or affect patients' access to all medically necessary outpatient drugs. A vote of at least 2/3 of the committee members present is required to add or delete a drug from the list of drugs that require prior authorization.

2 D. All documents generated by the committee are public
3 records for purposes of Title 1, chapter 13 and must be
4 maintained on file at the Bureau of Medical Services.

6 3. Appeals. A determination that a particular drug is
7 subject to prior authorization constitutes final agency action
8 within the meaning of the Maine Administrative Procedure Act and
9 is subject to judicial review under the Maine Administrative
10 Procedure Act. Persons entitled to appeal a decision of the
11 committee to subject a particular drug to prior authorization are
12 limited to:

14 A. MaineCare recipients who were being prescribed the drug
15 at the time of the committee's decision;

16 B. Health care providers who had prescribed the drug at the
17 time of the committee's decision; and

18 C. The manufacturer of the drug.

20 4. Rules. The department shall adopt rules to implement
21 this section. Rules adopted pursuant to this subsection are
22 routine technical rules as defined in Title 5, chapter 375,
23 subchapter 2-A.

26 SUMMARY

28 This bill establishes the Drug Utilization Review
30 Committee. The committee makes determinations regarding which
31 prescription and over-the-counter drugs are subject to prior
32 authorization under the MaineCare program. The bill requires
33 public notice of committee meetings to be given, and provides
34 that committee meetings are public proceedings and committee
35 documents are public records for purposes of the laws governing
36 freedom of access. It provides that members of the public must
37 be granted a reasonable opportunity to address the committee and
38 requires the committee to issue written findings that describe
39 the basis for its decisions. It also provides that a 2/3 vote of
40 the committee is required to add or delete a drug from the list
41 of drugs that require prior authorization and that the decisions
42 of the committee are final agency action for purposes of the
Maine Administrative Procedure Act.