

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

2004  
H. of S.

Date: 4/18/18

L.D. 696

(Filing No. H-772)

INSURANCE AND FINANCIAL SERVICES

Reproduced and distributed under the direction of the Clerk of the House.

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

COMMITTEE AMENDMENT "A" 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 MRS §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;

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;

A. of S.

1 D. If a prescription drug is removed from a formulary, notify an enrollee affected by  
2 the change of the enrollee's ability to request an exception to the formulary limitation  
3 pursuant to paragraph B and provide a form for the enrollee to use to request an  
4 exception. If an enrollee has already received prior authorization for that drug, the  
5 carrier shall continue to honor the existing authorization until it expires, as long as the  
6 enrollee continues to be covered under the same health plan and the drug has not been  
7 removed from the formulary because of concerns about safety; and

8 E. Except when a drug has been removed because of concerns about safety, if a drug  
9 has been removed from a formulary and a request for an exception to a formulary  
10 limitation submitted by or on behalf of an enrollee is received prior to the effective  
11 date of the proposed change, continue to provide coverage for that drug until the  
12 carrier has rendered a decision on the enrollee's request for an exception to the  
13 formulary limitation.

14 **Sec. A-2. Application.** The requirements of this Act apply to all policies,  
15 contracts and certificates executed, delivered, issued for delivery, continued or renewed  
16 in this State on or after January 1, 2019. For purposes of this Act, all contracts are  
17 deemed to be renewed no later than the next yearly anniversary of the contract date.

18 **PART B**

19 **Sec. B-1. Report on formulary changes.** As determined by the Department of  
20 Professional and Financial Regulation, Bureau of Insurance, a carrier subject to the  
21 requirements of the Maine Revised Statutes, Title 24-A, section 4311, subsection 1 shall  
22 report quarterly no less than 30 days following the end of each quarter on any changes  
23 made by the carrier or any pharmacy benefits manager contracted by the carrier to any  
24 prescription drug formulary for a health plan offered in this State between January 1,  
25 2019 and December 31, 2019. For purposes of this section, a change to a prescription  
26 drug formulary includes the movement of a prescription drug to a tier with higher cost  
27 sharing for that drug or the removal of a prescription drug from the formulary. The report  
28 must be in a form and manner determined by the Bureau of Insurance and include a list of  
29 formulary changes made by the carrier and the effective date of each formulary change;  
30 the prescription drugs affected by each formulary change by name and manufacturer; the  
31 number of enrollees affected by each formulary change; the expected impact of each  
32 formulary change on cost sharing for affected enrollees; a written explanation of the  
33 reasons for each formulary change; the number of exception requests made by enrollees  
34 with regard to each formulary change; and the number of exception requests granted,  
35 denied or withdrawn with regard to each formulary change. No less than 60 days  
36 following the end of each quarter, as determined by the Bureau of Insurance, the bureau  
37 shall compile this data for those carriers required by the bureau to report and submit a  
38 report to the joint standing committee of the Legislature having jurisdiction over  
39 insurance and financial services matters. The joint standing committee of the Legislature  
40 having jurisdiction over insurance and financial services matters may report out  
41 legislation related to the report to any regular or special session of the 129th Legislature.

42 **Sec. B-2. Report on formulary changes in state employee health**  
43 **insurance program.** The 3rd-party administrator or any pharmacy benefits manager  
44 contracted by the state employee health insurance program to administer prescription

P. of S.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

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

**SUMMARY**

This amendment replaces the bill.

Part A does the following:

1. It requires a carrier to provide notice of an adverse change to an enrollee's prescription drug formulary. At least 60 days' notice is required, except in instances in which a prescription drug is removed from the formulary because of concerns about safety. The amendment defines "adverse change to a formulary" as 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.
2. It requires a carrier to provide an enrollee with notice of the enrollee's right to request an exception to a formulary limitation when a prescription drug is removed from the formulary and to provide a form for an enrollee to use to make an exception request.
3. It requires a carrier to honor any prior authorization for a drug that has been removed from a formulary until the approval expires, as long as the enrollee retains coverage under the same plan.
4. It provides that when a drug is removed from a formulary and if an exception request is submitted prior to the effective date of the change, a carrier shall continue to provide coverage for that drug until the carrier has rendered a decision on an enrollee's request for an exception to the formulary limitation. This requirement does not apply to drugs removed from the formulary because of concerns about safety.

**COMMITTEE AMENDMENT**

A. of S.

COMMITTEE AMENDMENT "A" to H.P. 487, L.D. 696

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

5. It provides that the requirements apply to all individual and group health insurance policies and contracts issued or renewed on or after January 1, 2019.

Part B of the amendment requires any carrier as determined by the Department of Professional and Financial Regulation, Bureau of Insurance to report on any prescription drug formulary changes made in calendar year 2019 to the Bureau of Insurance no later than 30 days following the end of each quarter. The report must include a list of formulary changes made by the carrier; the prescription drugs affected by each formulary change by name and manufacturer; the number of enrollees affected by each formulary change; the expected impact of each formulary change on the cost sharing for affected enrollees; the reasons for each formulary change; the number of exception requests made by enrollees with regard to each formulary change; and the number of exception requests granted, denied or withdrawn with regard to each formulary change. The Bureau of Insurance is required to compile this data for all carriers required by the bureau to report and submit a report to the Legislature no later than 60 days following the end of each quarter. The joint standing committee of the Legislature having jurisdiction over insurance and financial services matters is authorized to report out a bill to any regular or special session of the 129th Legislature.

Part B also requires the state employee health insurance program to report the same information.

**FISCAL NOTE REQUIRED**

(See attached)

**COMMITTEE AMENDMENT**



# 128th MAINE LEGISLATURE

LD 696

LR 1343(02)

An Act Regarding Insurance and Financial Services

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-772)

Committee: Insurance and Financial Services

Fiscal Note Required: Yes

---

## Fiscal Note

Minor cost increase - All Funds

### Fiscal Detail and Notes

Any additional costs to the State Employee Health Plan to collect and report data to the Department of Professional and Financial Regulation, Bureau of Insurance, are expected to be minor and can be absorbed within existing budgeted resources.

Any additional costs to the Department of Professional and Financial Regulation to collect and report data to the legislature are expected to be minor and can be absorbed within existing budgeted resources.