

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

SECOND REGULAR SESSION-2024

Legislative Document

No. 2096

S.P. 889

In Senate, January 3, 2024

An Act to Ensure Access to Nonopioid, Nonnarcotic Medication for Acute Pain Relief

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by President JACKSON of Aroostook.
Cosponsored by Representative STOVER of Boothbay and
Senators: STEWART of Aroostook, VITELLI of Sagadahoc, Representatives: ARATA of New
Gloucester, CRAFTS of Newcastle, DODGE of Belfast, MILLIKEN of Blue Hill.

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

2 **Sec. 1. 24-A MRSA §4311, sub-§1-B** is enacted to read:

3 **1-B. Access to clinically appropriate nonopioid, nonnarcotic drugs.** For plan years
4 beginning on or after the effective date of this subsection, a carrier shall allow an enrollee,
5 the enrollee's designee or the person who has issued a valid prescription for the enrollee to
6 request and gain access to a clinically appropriate nonopioid, nonnarcotic drug approved
7 by the federal Food and Drug Administration for the treatment and management of acute
8 pain, as defined in Title 22, section 7246, subsection 1-A, not otherwise covered by the
9 health plan. The carrier's process must comply with section 4304 and with this subsection.
10 If the carrier approves a request under this subsection for a nonopioid, nonnarcotic drug
11 not otherwise covered by the health plan, the carrier must treat the nonopioid, nonnarcotic
12 drug as an essential health benefit, including counting any cost sharing toward the plan's
13 annual limit on cost sharing and including it when calculating the plan's actuarial value.

14 Coverage for nonopioid, nonnarcotic drugs under this subsection may not be more
15 restrictive or prohibitive than coverage for an opioid or narcotic drug. A carrier, in
16 establishing criteria for coverage or a prescription drug formulary, may not impermissibly
17 disadvantage or discourage the use of the nonopioid, nonnarcotic drug for the treatment or
18 management of acute pain, including by:

19 A. Establishing coverage criteria for the nonopioid, nonnarcotic drug that are more
20 restrictive than the least restrictive coverage criteria for an opioid or narcotic drug for
21 the same or similar management or treatment of acute pain;

22 B. Notwithstanding section 4304, establishing prior authorization requirements for the
23 nonopioid, nonnarcotic drug that are more restrictive or more extensive than the least
24 restrictive or least extensive prior authorization requirements for an opioid or narcotic
25 drug for the same or similar management or treatment of acute pain;

26 C. Notwithstanding section 4320-N, establishing step therapy protocols for the
27 nonopioid, nonnarcotic drug that are more restrictive or more extensive than the least
28 restrictive or least extensive step therapy protocols for an opioid or narcotic drug for
29 the same or similar management or treatment of acute pain; or

30 D. Establishing other utilization management requirements or quantity or frequency
31 of use limits for the nonopioid, nonnarcotic drug that are more restrictive than the least
32 restrictive requirements or limits for an opioid or narcotic drug for the same or similar
33 management or treatment of acute pain.

34 The requirements of this subsection apply to a nonopioid, nonnarcotic drug upon the
35 approval of that drug by the federal Food and Drug Administration, regardless of whether
36 that drug has been reviewed by the Department of Health and Human Services for inclusion
37 on a preferred drug list or by a carrier's inclusion on its prescription drug formulary.

38 **SUMMARY**

39 This bill requires a health insurance carrier to allow an insured person to request and
40 gain access to a clinically appropriate nonopioid, nonnarcotic drug approved by the federal
41 Food and Drug Administration for the treatment and management of acute pain not
42 otherwise covered by the insured person's health plan. A health insurance carrier is

1 prohibited from impermissibly disadvantaging or discouraging the use of nonopioid,
2 nonnarcotic drugs relative to opioid or narcotic drugs for the same or similar treatment and
3 management of acute pain, including by establishing for the nonopioid, nonnarcotic drug,
4 in relation to an opioid or narcotic drug: more restrictive coverage criteria; more restrictive
5 or extensive preauthorization requirements; more restrictive or extensive step therapy
6 protocols; or more restrictive utilization management requirements or quantity or
7 frequency of use requirements.

8 The bill applies to a nonopioid, nonnarcotic drug upon its approval by the federal Food
9 and Drug Administration for the treatment or management of acute pain, regardless of
10 whether the drug has been reviewed by the Department of Health and Human Services for
11 inclusion on a preferred drug list or by health insurance carriers for inclusion on their
12 prescription drug formulary.