

Act No. 322
Public Acts of 2020
Approved by the Governor
December 29, 2020
Filed with the Secretary of State
December 29, 2020
EFFECTIVE DATE: December 29, 2020

**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020**

Introduced by Senator MacGregor

ENROLLED SENATE BILL No. 879

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental

supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 3406o (MCL 500.3406o), as amended by 2016 PA 276, and by adding section 3406w.

The People of the State of Michigan enact:

Sec. 3406o. (1) An insurer that delivers, issues for delivery, or renews in this state a health insurance policy that provides coverage for prescription drugs and limits those benefits to drugs included in a formulary shall do all of the following:

(a) Provide for participation of participating physicians, dentists, and pharmacists in the development of the formulary.

(b) Disclose to health care providers and upon request to insureds the nature of the formulary restrictions.

(c) Provide for exceptions from the formulary limitation when a nonformulary alternative is a medically necessary and appropriate alternative. This subdivision does not prevent an insurer from establishing prior authorization requirements or another process for consideration of coverage or higher cost-sharing for nonformulary alternatives.

(2) On a request for an expedited review of coverage for a nonformulary alternative based on exigent circumstances, an insurer shall make a determination and notify the enrollee or the enrollee's designee and the prescribing physician, or other prescriber, as appropriate, of the determination within 24 hours after the insurer receives all information necessary to determine whether the exception should be granted. For purposes of this subsection, exigent circumstances exist when an enrollee is suffering from a health condition that may seriously jeopardize the enrollee's life, health, or ability to regain maximum function or when an enrollee is undergoing a current course of treatment using a nonformulary drug.

(3) If subsection (2) does not apply, an insurer shall make a determination on coverage for a nonformulary alternative and notify the enrollee or the enrollee's designee and the prescribing physician, or other prescriber, as appropriate, of the determination within 72 hours after the insurer receives all information necessary to determine whether the exception should be granted.

(4) This section is subject to section 3406w.

Sec. 3406w. (1) Beginning on the effective date of the amendatory act that added this section, an insurer that delivers, issues for delivery, or renews in this state a health insurance policy that provides coverage for prescription drugs shall do both of the following:

(a) Provide coverage for an emergency refill of up to a 60-day supply of any covered maintenance prescription drug.

(b) Provide coverage for an early refill of any 30-day or 60-day covered maintenance prescription drug to allow for up to a 90-day supply, without regard to whether the pharmacy is mail order or in person.

(2) This section does not apply after March 31, 2021.

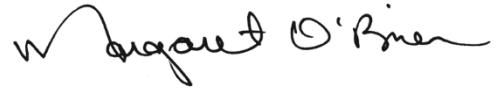
(3) As used in this section:

(a) "Emergency refill" means a refill where, in the pharmacist's professional judgment, failure to refill the prescription may interrupt the patient's ongoing care and have a significant adverse effect on the patient's well-being as provided in section 17713 of the public health code, 1978 PA 368, MCL 333.17713.

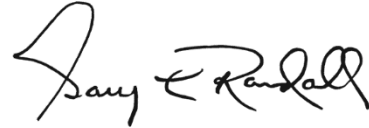
(b) "Maintenance prescription drug" means a prescription drug that meets the requirements under section 3406t(1)(b)(i) to (iii).

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 920 of the 100th Legislature is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor

Compiler's note: Senate Bill No. 920, referred to in enacting section 1, was filed with the Secretary of State December 29, 2020, and became 2020 PA 324, Imd. Eff. Dec. 29, 2020.