

**SUBSTITUTE FOR  
SENATE BILL NO. 879**

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
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:**

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

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

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

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

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

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

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

27 **Sec. 3406w. (1) Beginning on the effective date of the**  
28 **amendatory act that added this section, an insurer that delivers,**  
29 **issues for delivery, or renews in this state a health insurance**

1 policy that provides coverage for prescription drugs shall do both  
2 of the following:

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

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

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

10 (3) As used in this section:

11 (a) "Emergency refill" means a refill where, in the  
12 pharmacist's professional judgment, failure to refill the  
13 prescription may interrupt the patient's ongoing care and have a  
14 significant adverse effect on the patient's well-being as provided  
15 in section 17713 of the public health code, 1978 PA 368, MCL  
16 333.17713.

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

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