

**SUBSTITUTE FOR
HOUSE BILL NO. 5721**

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 3406v.

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 3406v.**

27 **Sec. 3406v. Beginning on the effective date of the amendatory**
28 **act that added this section, and until June 30, 2021, an insurer**
29 **that delivers, issues for delivery, or renews in this state a**



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

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

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