

# HOUSE BILL NO. 5873

June 18, 2020, Introduced by Reps. Hammoud, Hertel, Kuppa, Hood, Cynthia Johnson, Peterson, Manoogian, Gay-Dagnogo, Camilleri, Garza, Tyrone Carter, Bolden and Stone and referred to the Committee on Insurance.

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,



1 dentists, and pharmacists in the development of the formulary.

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

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

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

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

29 **(4) This section is subject to section 3406v.**



1           Sec. 3406v. (1) If the governor issues a qualified executive  
2 order, an insurer that delivers, issues for delivery, or renews in  
3 this state a health insurance policy shall, within 24 hours after  
4 the governor issues the qualified order, do all of the following:

5           (a) Provide coverage for a 1-time early refill of any  
6 prescription drug.

7           (b) Remove any barriers for an insured to obtain prescription  
8 drugs from an out-of-network pharmacy.

9           (c) Provide coverage for off-formulary prescription drugs if  
10 there is not a formulary drug available to treat the insurer.

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

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

17           (2) As used in this section, "qualified executive order" means  
18 an executive order issued by the governor to which both of the  
19 following apply:

20           (a) The executive order is issued during a declared state of  
21 emergency or disaster under any of the following:

22           (i) Section 1 of article V of the state constitution of 1963.

23           (ii) The emergency management act, 1976 PA 390, MCL 30.401 to  
24 30.421.

25           (iii) 302 PA 1945, MCL 10.31 to 10.33.

26           (b) The executive order directs residents of this state to  
27 remain in their residences, with limited exceptions, for at least 2  
28 weeks.

