SENATE BILL 483

Unofficial Copy 2002 Regular Session
J1 2lr1953
CF 2lr2472

By: **Senators Kelley and Della**
Introduced and read first time: February 1, 2002
Assigned to: Finance

A BILL ENTITLED

AN ACT concerning

Medical Assistance - Pharmaceutical Products - Accessibility and Coverage Protection for Enrollees

FOR the purpose of prohibiting the Department of Health and Mental Hygiene from implementing a formulary that is covered by prior authorization in the Medical Assistance Program unless certain provisions are met; prohibiting the Department from restricting coverage of a drug approved by the federal Food and Drug Administration unless the Department has certain data; prohibiting the Department from limiting or excluding coverage of a drug prescribed for a medical condition of a program recipient under certain circumstances; requiring a certain formulary covered by prior authorization to have certain provisions; defining a certain term; and generally relating to a formulary under the Medical Assistance Program.

BY adding to
Article - Health - General
Section 15-118.1
Annotated Code of Maryland
(2000 Replacement Volume and 2001 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article - Health - General

15-118.1.

(A) IN THIS SECTION, "FORMULARY" MEANS A LIST OF PRESCRIPTION DRUGS OR DEVICES.

(B) THE DEPARTMENT MAY NOT IMPLEMENT A FORMULARY THAT IS COVERED BY PRIOR AUTHORIZATION UNLESS:

(1) THE FORMULARY DEVELOPED BY THE DEPARTMENT IS ESTABLISHED BY A PHARMACEUTICAL AND THERAPEUTICS COMMITTEE THAT

INCLUDES PRACTICING MARYLAND PHYSICIANS, INCLUDING SPECIALTY PHYSICIANS, PHARMACISTS, PATIENT ADVOCATES, AND OTHERS; AND

(2) THE DECISION OF THE COMMITTEE REGARDING ANY LIMITATIONS IMPOSED ON ANY DRUG OR ITS USE FOR A SPECIFIC INDICATION SHALL BE BASED ON SOUND CLINICAL EVIDENCE FOUND IN LABELING, DRUG COMPENDIA, AND PEER REVIEWED CLINICAL LITERATURE PERTAINING TO USE OF THE DRUG IN THE RELEVANT POPULATION.

(C) THE DEPARTMENT MAY NOT RESTRICT COVERAGE OF A DRUG APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR AN INDICATION UNLESS THE DEPARTMENT HAS AT LEAST 6 MONTHS OF DATA REGARDING USE OF THE DRUG FOR TREATING PATIENTS IN THE PROGRAM.

(D) THE DEPARTMENT MAY NOT LIMIT OR EXCLUDE COVERAGE OF A DRUG WHEN PRESCRIBED FOR THE MEDICAL CONDITION OF A PROGRAM RECIPIENT IF THE DRUG PREVIOUSLY HAS BEEN APPROVED BY THE DEPARTMENT FOR THE RECIPIENT'S MEDICAL CONDITION.

(E) A FORMULARY THAT IS COVERED BY PRIOR AUTHORIZATION AND DEVELOPED BY THE DEPARTMENT SHALL:

(1) PROVIDE FOR COVERAGE OF DRUGS IN EVERY THERAPEUTIC CLASS; AND

(2) OFFER A CHOICE OF AT LEAST TWO PHARMACEUTICAL OR BIOLOGICAL ENTITIES WITHOUT AN ADMINISTRATIVE PREFERENCE FOR EACH THERAPEUTIC CLASS IN WHICH THERE ARE TWO OR MORE PHARMACEUTICAL OR BIOLOGICAL ENTITIES APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2002.