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By: **Delegates Murray, Benson, Branch, Bromwell, Carter, C. Davis, Dumais, Feldman, Goldwater, Gordon, Hammen, Haynes, Holmes, Hubbard, King, Kirk, Lee, Marriott, Oaks, Rudolph, Simmons, Stern, Taylor, V. Turner, and Vaughn**

Introduced and read first time: February 11, 2005

Assigned to: Health and Government Operations

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A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance - Prescription Drug Coverage - Alternative Drugs**

3 FOR the purpose of requiring an insurer, nonprofit health service plan, or health  
4 maintenance organization that provides coverage for prescription drugs and  
5 devices and limits its coverage of prescription drugs or devices to those in a  
6 formulary to include in the formulary alternative drugs, as approved by the  
7 State Board on Pharmacy, for sub-groups of the population that have  
8 experienced adverse effects from drugs on the formulary.

9 BY repealing and reenacting, with amendments,  
10 Article - Insurance  
11 Section 15-831  
12 Annotated Code of Maryland  
13 (2002 Replacement Volume and 2004 Supplement)

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

16 **Article - Insurance**

17 15-831.

18 (a) (1) In this section the following words have the meanings indicated.

19 (2) "Authorized prescriber" has the meaning stated in § 12-101 of the  
20 Health Occupations Article.

21 (3) "Formulary" means a list of prescription drugs or devices that are  
22 covered by an entity subject to this section.

23 (4) (i) "Member" means an individual entitled to health care benefits  
24 for prescription drugs or devices under a policy issued or delivered in the State by an  
25 entity subject to this section.

1 (ii) "Member" includes a subscriber.

2 (b) (1) This section applies to:

3 (i) insurers and nonprofit health service plans that provide  
4 coverage for prescription drugs and devices under health insurance policies or  
5 contracts that are issued or delivered in the State; and

6 (ii) health maintenance organizations that provide coverage for  
7 prescription drugs and devices under contracts that are issued or delivered in the  
8 State.

9 (2) An insurer, nonprofit health service plan, or health maintenance  
10 organization that provides coverage for prescription drugs and devices through a  
11 pharmacy benefit manager is subject to the requirements of this section.

12 (3) This section does not apply to a managed care organization as  
13 defined in § 15-101 of the Health - General Article.

14 (c) Each entity subject to this section that limits its coverage of prescription  
15 drugs or devices to those in a formulary shall:

16 (1) establish and implement a procedure by which a member may receive  
17 a prescription drug or device that is not in the entity's formulary in accordance with  
18 this section; AND

19 (2) INCLUDE IN THE FORMULARY ALTERNATIVE DRUGS, AS APPROVED  
20 BY THE STATE BOARD OF PHARMACY, FOR SUB-GROUPS OF THE POPULATION THAT  
21 HAVE EXPERIENCED ADVERSE EFFECTS FROM DRUGS ON THE FORMULARY.

22 (d) The procedure shall provide for coverage for a prescription drug or device  
23 that is not in the formulary if, in the judgment of the authorized prescriber:

24 (1) there is no equivalent prescription drug or device in the entity's  
25 formulary; or

26 (2) an equivalent prescription drug or device in the entity's formulary:

27 (i) has been ineffective in treating the disease or condition of the  
28 member; or

29 (ii) has caused or is likely to cause an adverse reaction or other  
30 harm to the member.

31 (e) A decision by an entity subject to this section not to provide access to or  
32 coverage of a prescription drug or device in accordance with this section constitutes  
33 an adverse decision as defined under Subtitle 10A of this title if the decision is based  
34 on a finding that the proposed drug or device is not medically necessary, appropriate,  
35 or efficient.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 October 1, 2005.