

**HOUSE BILL NO. 543**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Introduced: 3/25/04

Referred: Health, Education and Social Services

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to medical assistance coverage for prescription drugs; and providing  
2 for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1.** AS 47.07 is amended by adding a new section to read:

5 **Sec. 47.07.037. Preferred drug list; limitation of drug coverage.** (a) If the  
6 department undertakes a cost containment measure under this chapter that involves a  
7 preferred drug list or limitation of medical assistance coverage for a drug, the  
8 department shall adopt regulations relating to the preferred drug list or the limitation  
9 of coverage before the list or limitation may be implemented. The regulations must  
10 include

11 (1) standards for placing or not placing a drug on the preferred drug  
12 list or for limiting medical assistance coverage for a drug by the department;

13 (2) an opportunity for public comment before the department places or  
14 determines not to place a drug on the preferred drug list or limits medical assistance

1 coverage for a drug;

2 (3) an appeal process for a person who is affected by a decision of the  
3 department to place or not to place a drug on the preferred drug list or to limit medical  
4 assistance coverage for a drug; and

5 (4) a provision under which the department will approve coverage of a  
6 drug that is not on a preferred drug list without requiring additional medical  
7 justification if a physician documents on the prescription that the drug as prescribed is  
8 medically necessary for the patient as being the most effective drug available for the  
9 patient's condition by writing on the prescription the phrase "dispense as written,"  
10 "medically necessary," or other wording with similar import.

11 (b) Subject to AS 36.30 (State Procurement Code), the department may  
12 contract for the services necessary to assist the department in developing a preferred  
13 drug list or determining whether coverage for a drug should be limited.

14 (c) If the department undertakes to establish a preferred drug list or to  
15 determine whether coverage for a drug should be limited, the commissioner shall  
16 appoint a Prescription Drug Review Advisory Committee consisting of at least three  
17 members who are licensed pharmacists under AS 08.80, at least two members who are  
18 licensed to practice medicine under AS 08.64, and at least two members who are  
19 dentists licensed under AS 08.36. The duties of the committee include

20 (1) conducting public meetings on developing a preferred drug list or  
21 limiting coverage for a drug;

22 (2) assisting the department in setting standards in regulations for the  
23 review and selection of drugs for a preferred drug list or for limitation of coverage;  
24 and

25 (3) reviewing each drug and making recommendations to the  
26 department as to whether the drug should be on a preferred drug list or subject to  
27 limitation of coverage under the standards adopted under (2) of this subsection.

28 (d) A committee member appointed under (c) of this section serves without  
29 compensation but is entitled to per diem and travel expenses authorized for boards and  
30 commissions under AS 39.20.180. The committee shall select a chair from among its  
31 membership who may be removed from the position as chair only by a majority vote

1 of the full committee.

2 (e) In this section,

3 (1) "drug" means a prescription drug that is eligible under federal law  
4 for coverage under this chapter;

5 (2) "limiting coverage for a drug" means determining that a drug

6 (A) is subject to prior authorization for medical assistance  
7 coverage;

8 (B) will not be covered because it does not have a significant,  
9 clinically meaningful therapeutic advantage in terms of safety, effectiveness, or  
10 clinical outcome of such treatment over other drugs included on a preferred  
11 drug list, according to a publicly available written finding of the department; or

12 (C) is otherwise restricted or excluded from coverage under 42  
13 U.S.C. 1396r-8(d);

14 (3) "preferred drug list" means a list of drugs

15 (A) that comprise a restrictive formulary;

16 (B) for which the department will not require a prior or  
17 retroactive prescription approval process;

18 (C) for which the department will not require medical  
19 justification by the prescriber as a condition of coverage under this chapter  
20 before the drugs may be dispensed to a recipient of assistance under this  
21 chapter; or

22 (D) for which the department will not establish other similar  
23 restrictions for coverage under this chapter.

24 \* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to  
25 read:

26 TRANSITIONAL PROVISIONS. (a) Notwithstanding AS 47.07.037, enacted by  
27 sec. 1 of this Act, a preferred drug list adopted by the Department of Health and Social  
28 Services before the effective date of this Act may be implemented until the effective date of  
29 regulations adopted under this Act or until six months after the effective date of this Act,  
30 whichever date occurs first.

31 (b) Notwithstanding (a) of this section and AS 47.07.037, enacted by sec. 1 of this

1 Act, the Department of Health and Social Services may not implement a cost containment  
2 measure under AS 47.07.036 or 47.07.037 before January 1, 2005, that would establish a  
3 preferred drug list for drugs used to treat mental illness or that would otherwise prohibit a  
4 recipient of medical assistance under AS 47.07 from having unrestricted access to drugs  
5 prescribed for the recipient for the treatment of mental illness. In this subsection, "mental  
6 illness" has the meaning given in AS 47.30.915.

7 (c) A committee appointed before the effective date of this Act by the Department of  
8 Health and Social Services to adopt a preferred drug list shall serve as the Prescription Drug  
9 Review Advisory Committee under AS 47.07.037, enacted by sec. 1 of this Act.

10 (d) In this section, "preferred drug list" has the meaning given in AS 47.07.037,  
11 enacted by sec. 1 of this Act.

12 \* **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).