

CS FOR HOUSE BILL NO. 543(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 4/26/04

Referred: Rules

Sponsor(s): HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

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; and

2 (3) a provision under which the department will approve coverage of a
3 drug that is not on a preferred drug list without requiring additional medical
4 justification if a physician documents on the prescription that the drug as prescribed is
5 medically necessary for the patient as being the most effective drug available for the
6 patient's condition by writing on the prescription the phrase "medically necessary."

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

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

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

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

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

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

29 (e) In this section,

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

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

2 (A) is subject to prior authorization for medical assistance
3 coverage;

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

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

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

11 (A) that comprise a restrictive formulary;

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

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

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

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

22 **TRANSITIONAL PROVISIONS.** (a) Notwithstanding AS 47.07.037, enacted by
23 sec. 1 of this Act, a preferred drug list initiated by the Department of Health and Social
24 Services before the effective date of this Act must be reviewed for consistency with
25 regulations adopted under this Act and may not be implemented before the effective date of
26 the regulations adopted under this Act, except that a prescription drug list initiated before the
27 effective date of this Act may be implemented for prescription drug coverage under the senior
28 care program established under ch. 3, SLA 2004, until the effective date of regulations
29 adopted under this Act or until six months after the effective date of this Act, whichever date
30 first occurs.

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).