

**HB**

**218**

<TARGET><BILL>HB 218</BILL><SUBJECT>HB  
218</SUBJECT><COMM>HHSS27</COMM></TARGET>

Alaska State Capitol, Rm. 432  
Juneau, AK 99801  
Phone: (907) 465-2186  
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600 E. Railroad Avenue  
Wasilla, AK 99654  
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## Representative Wes Keller House District 14

**To:** Representative Kurt Olson, Chair  
House Labor & Commerce Committee

**From:** Representative Wes Keller

**Date:** March 13, 2012

**Re:** House Labor and Commerce Committee

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This is a request for a House Labor and Commerce Committee hearing for HB 218, which protects patients with critical and chronic illness from sudden changes in their drug treatment and therapy protocols by extending the notification time from 30 days to 90 days from their insurance carrier.

The following documents are attached and will be sent electronically:

- Sponsor statement
- Sectional analysis
- Latest version of the bill
- Fiscal Note
- Staff member assigned to the bill: Janet Ogan 465.2671
- Off net callers: Brenda Robertson, Self, 305.0502; Antonia Fowler, Alaska MS Center, 929.2567; Sheela Tallman, Manager, Legislative Policy, Premera Blue Cross, 425.918.6013
- Additional information

# ALASKA STATE LEGISLATURE



**State Capitol Building  
Juneau, Alaska 99801-1182**

## Sponsor Statement House Bill 218

**“An Act prohibiting an insurer from using a drug formulary system of specialty tiers under certain circumstances.”**

Specialty medications used to treat complex chronic diseases continue to be the fastest growing segments of overall drug spend. While traditional drug spend slowed to an increase of only 1.5% in 2008, specialty drug spend continued its steady climb, increasing 15.4%\*

House Bill 218 protects patients with critical illnesses from sudden changes in their drug treatment and therapy protocols which may un-expectantly deprive the patient from critical therapies due to the inability to pay for the drug or sufficient time to plan alternative financial or therapeutic strategies.

Currently, insurance companies can change their reimbursement policies with only a 30 day notice, often forcing the patient to absorb thousands of dollars of unexpected costs for expensive specialty drug therapy. By extending the notification period the savings for the patient will be absorbed by rest of the policy holders on the plan.\* This may give the patient additional time to explore other options which may allow for a transition to a more affordable plan with similar therapeutic results.

Without these specialty drugs quality of life deteriorates and long term health care costs may increase. Additionally, cost savings may be achieved by exploring options like management through specialty pharmacies that use drug-utilization monitoring specifically designed for hard to manage conditions.

\*2008 Specialty Drug Trend Report, Cura Script Specialty Pharmacy

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 21, 2012

**SUBJECT:** Drug formulary tiers (HB 218, Work Order No. 27-LS0728\B)

**TO:** Representative Wes Keller  
Attn: Janet Ogan

**FROM:** Dennis C. Bailey  
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

**Section 1.** States legislative findings relating to the need for prescription drugs, the categories and specialty tiers for certain drugs, the cost of drugs, excessively high payments for drugs, the need to inform patients about the cost of drugs that exceed insurance coverage; and the disparity in insurance payments for unique categories or tiers for patients whose life and health depend on certain drugs.

**Section 2.** States the legislative intent is to provide information to patients about the cost of drugs for certain diseases and conditions.

**Section 3.** Allows a health care insurer that provides coverage for drugs in unique categories or specialty tiers to impose cost sharing, deductibles, or copayment terms that exceed the cost sharing, deductibles, or copayments of nonpreferred brand drugs or the drug's equivalent if the insurer notifies the insured of the cost sharing, deductibles, or copayment terms at least 90 days before the terms apply.

**Section 4.** Provides that the notice requirements in sec. 3 apply to health insurance plans offered, issued for delivery, delivered or renewed on or after the effective date.

If I may be of further assistance, please advise.

DCB:plm  
12-120.plm



## Fact Sheet

### AB 310 – Assemblywoman Fiona Ma

#### Fair Specialty Drug Payments

**Summary:** AB 310 would prohibit health plans and insurers from using “co-insurance” and cap out-of-pocket co-pay costs for patients.

#### **Background & Problem:**

When patients pay for drug medications, many health care plans include a pricing structure. The tiers are often labeled ‘generic,’ ‘preferred,’ and ‘non-preferred’ and each have a set cost-sharing amount. For example, \$10 for generic, \$30 for preferred and \$60 for non-preferred.

In 2006, Medicare Part D plans (PDPs) started introducing a fourth level known as a “specialty tier,” which provides the plan with the ability to use a co-insurance to share the costs of the most expensive medications with the patient

Many private healthcare and drug plans have copied this model for the most expensive medications, but instead of a fixed amount like in Medicare, plans may now require enrollees to pay co-insurance, which is a percentage of the cost of medications. These plans have been charging patients, on average, 25 to 33 percent, which can end up costing the patient thousands of dollars a month out of pocket. These extortionate co-insurance charges can be as high as over \$8,000 per month.

The Kaiser Family Foundation Employer Health Benefits 2010 survey reports a dramatic increase in specialty tiers, using the co-insurance method of payment. Nationwide, in 2004, only 3% of workers were in a plan with four or more tiers of coverage. However, in 2010 that number increased to 13%, covering more than 20 million Americans. Data also indicates that in 2006, 50% of Medicare drug plans used specialty tiers. In 2008, specialty tiers were represented in 81% of Medicare plans.

In addition, Prime Therapeutics released a study in 2009 that measured multiple sclerosis medication OOP expense association with decline to fill rate. It showed that when MS medication OOP expenses were greater than \$200 the decline to fill rate compared was six times greater than if the co-payment was less than \$100.

Many of the drugs on specialty tiers are used to treat conditions such as: cancer, autoimmune conditions like Crohn’s disease, lupus, multiple sclerosis, myasthenia gravis, myositis, psoriasis, scleroderma, rheumatoid arthritis, hemophilia and other bleeding disorders, hepatitis, primary and secondary immune deficiencies, neuropathy, and transplant patients.

Drugs found on specialty tiers have been in the marketplace for over twenty years and have been covered by insurance plans without charging co-insurance. Many of these therapies have remained at the same price, with the exception of new generations of these drugs. These drugs have no generic alternatives, are used to treat rare diseases, genetic disorders, and chronic conditions that without treatment will lead to disability and death.

#### **Solution:**

Beginning January 1, 2012 AB 310 prevents health plans and insurers from using the co-insurance method of payment. The bill also places \$150 dollar out-of-pocket cap for a one month supply of medication, or its equivalent for prescriptions for longer periods, as adjusted for inflation.

In addition, AB 310 makes sure that if a health care service plan provides for a limit on patients’ annual out-of-pocket expenses, the patients’ out-of-pocket costs of covered prescription drugs shall be included in that limit.

#### **Support:**

The National Multiple Sclerosis Society (Sponsor)  
The Alliance for Plasma Therapies (Sponsor)

#### **Contact:**

Nick Hardeman, 916.319.2012  
Kasey O’Connor, 916.319.2012

Brenda Robertson  
22500 Columbia Glacier Loop  
Anchorage, AK 99577-9572

July 13, 2011

The Honorable Wes Keller  
Alaska House of Representatives  
State Capitol  
Juneau, AK 99801-1182

Dear Representative Keller:

The new specialty drug tiers have caused us to have to consider stopping my husband's MS medication. Our Co-Pay went from \$30/mo to nearly \$1200/mo. No financial assistance applies to us although it is a major financial burden. Other states have laws banning tier 4 drug pricing (New York, etc). Does it make sense to have people stopping their meds & making more hospital trips? Please direct me how to get this on someone's radar so this can be dealt with. I am sure there are many others suffering as well. ALL MS medications are now tier 4. I would appreciate anything you can do. It looks like the HB 218 only requires 90 days notice. The problem is the same, in 90 days people will just have to stop their medication. We have always paid our own way, not on welfare, don't take govt assistance...but \$1200 a month? Plus our massive insurance premiums we pay each month?? We need help - please let me know if there is anything you can do.

Sincerely,

Brenda Robertson  
907-350-0502



## Advocates for Responsible Care

We will be their voice until their voices are heard.

### **Specialty Tier Story Submission**

Today health insurance companies are creating a fourth and fifth tier of drugs, called *Specialty Tier* drugs. *Specialty Tier* medications include drugs that are injected, infused, taken orally, inhaled, or that require special dosing and handling, close supervision, or monitoring. Specifically these include medications for Rheumatoid Arthritis, Systemic Lupus, Cancer, MS, plasma therapies and other life-threatening and chronic diseases. Unlike the co-payments for the other tiers, health insurance companies are charging an extraordinarily high co-insurance (higher cost for the drug) for *Specialty Tier* medicines. This co-payment/co-insurance is 20-35% of the cost of the drug. Many individuals cannot afford this out-of-pocket expense for their *Specialty Tier* medications. This practice is restricting access to much-needed medications for patients with serious chronic diseases.

Advocates for Responsible Care (ARxC) are leading an initiative to stop the high co-insurance/co-payments for *Specialty Tier* medications in Georgia. We are asking persons who are dependent upon these medications to share with us their stories. We want to know how an increase in the cost of these specialty drugs will affect their illness and their access to these vital medications. We will use these stories to help mobilize a Georgia-wide effort to end the rise in out-of-pocket costs for *Specialty Tier* medications.

If you are dependent upon a *specialty tier* medication please share your story at [http://advocatesforresponsiblecare.org/Story\\_Submission.html](http://advocatesforresponsiblecare.org/Story_Submission.html).

If you would like to learn more the issue, how you may be affected, and how you can get involved in the movement to stop health insurance providers from increasing the costs for *Specialty Tier* medications please visit our website at [http://advocatesforresponsiblecare.org/Specialty\\_Tiers.html](http://advocatesforresponsiblecare.org/Specialty_Tiers.html). You can also follow ARxC on Facebook at [Advocates for Responsible Care](#) or on twitter [@ARxCAdvocates](#).

*The Advocates for Responsible Care empower individuals to achieve their maximum wellness with a strong voice as health care advocates, effectively reducing cultural incompetency and health care delivery disparity.*

February 14, 2012

Jack C. McRae  
Senior Vice President

Representative Wes Keller  
State Capitol Room 432  
Juneau, Alaska 99801

Re: HB 218, Specialty Pharmacy Tiers

Dear Representative Keller,

On behalf of Premera Blue Cross Blue Shield of Alaska, I am writing to you to express our concerns with HB 218, pertaining to specialty pharmacy tiers.

Premera currently provides notification regarding our policy on cost sharing, deductibles or copayment terms applicable to specialty pharmacy to our members 30 days before the terms apply. To date, we've received no complaints about this approach from members: the 30-day advance notice allows members time to meet with their providers to discuss specialty drug prescription options. Members may face cost sharing changes during the year for different reasons, including a formulary change when a generic drug becomes available. Premera notifies impacted members by mail 30 days before such changes that would impact cost sharing. HB 218 includes a shift to a 90-day notification timeframe. This change will inflate costs for specialty drugs and will increase overall healthcare premiums for Alaskans. If implemented, this change could also impact and raise state employee insurance rates.

Premera Blue Cross Blue Shield of Alaska covers over 70,000 members and provides comprehensive coverage to our members, with the majority of our plans including prescription drug coverage. We currently offer a four-tier pharmacy benefit for our members. Drugs are classified into tiers by an independent committee of experts, including doctors, pharmacists, health economists, a bioethicist and a member representative. This committee continuously reviews new and existing drugs, evaluates how well drugs work, and how their cost and effectiveness compare to similar drugs used for the same condition, then compares how much additional benefit a drug provides to the extra cost in comparison to a standard treatment for the same medical condition.

It is important to note the following for specialty pharmacy:

- The Centers for Medicare and Medicaid Services (CMS) classifies specialty pharmacy as pharmaceuticals often used to treat complex, chronic medical conditions. The drugs have fewer generic alternatives and may require increased physician involvement and special storage and handling.
- The average price of specialty drugs can cost \$2,000 - \$2,500 for 30-day supply.
- Expenses for drugs are the fastest growing segment of healthcare, with **expenses for specialty drugs growing at the fastest rate in the drug category (15%-20% per year).**

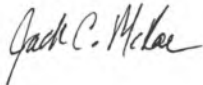
February 14, 2012

- Specialty drugs comprise **more than 16% of total pharmaceutical spending** in the U.S. today. If current trends continue, by 2030, specialty pharmacy costs will exceed \$1 trillion/ year and account for as much as 44% of a health plan's total drug expenditures.<sup>1</sup>
- Less than 3% of private health plan members use specialty pharmaceuticals; however, these members account for **25-30% of total private payer medical costs.**
- Medicare first created a specialty drug tier or 4<sup>th</sup> tier to help manage rising drug costs.
- An insurer's use of drug formulary tiering is an effective cost management tool, for the insurer and for its members and allows insurers to continue to provide access to these critical drugs.

We would oppose any prohibition on specialty drug tiering, including a prohibition on imposing higher cost sharing for specialty drugs.

Thank you for your consideration. I would be happy to answer any questions that you may have.

Sincerely,



Jack C. McRae  
Senior Vice President

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<sup>1</sup> <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2706163/>

March 13, 2012

Jack C. McRae  
Senior Vice President

Representative Wes Keller  
State Capitol Room 432  
Juneau, Alaska 99801

Re: HB 218, Specialty Pharmacy Tiers

Dear Representative Keller,

We at Premera Blue Cross Blue Shield of Alaska continue to have concerns with HB 218, pertaining to pharmacy tiers and wanted to make you aware of a requirement in the Affordable Care Act (ACA) that will require specific information about coverage and benefits, including pharmacy benefits, to be provided to members at certain times.

The language of this bill imposes mandatory notification processes on insurers that are duplicative to current processes and new federal reform requirements and further, would add costs and confusion for our members. Specifically, HB 218 requires member notification related to cost sharing, deductibles or copayments of pharmaceuticals in certain tiers at least 90 days in advance of term applicability.

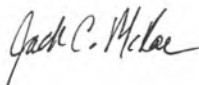
Premera provides timely information to members and groups about our benefit plans, including pharmacy benefits and cost sharing for tiers. Currently, we notify members about this information on an annual basis, upon initial plan enrollment or upon plan renewal. We also notify members if and when a pharmaceutical tier has been added to their current pharmacy benefit plan. Premera notifies impacted members by mail 30 days before such changes that would impact cost sharing.

In addition, as part of healthcare reform under the Affordable Care Act beginning September 23, 2012, insurers will be required to provide a summary of benefits and coverage document, inclusive of a specific section on drugs and cost sharing. This document must be provided during open enrollment periods for individuals and groups. A change at mid-year, or more specifically, a change that impacts the information provided in the summary document, triggers a 60-day notification requirement to members. This requirement will impact all plans: grandfathered and non-grandfathered individual and group coverage as well as self-funded plans.

We wanted you to be aware of this imminent ACA requirement as part of the discussion on HB 218.

Thank you for your consideration. I would be happy to answer any questions that you may have.

Sincerely,



Jack C. McRae  
Senior Vice President

# FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

Bill Version HB 218  
Fiscal Note Number \_\_\_\_\_  
( ) Publish Date \_\_\_\_\_

Identifier (file name) HB218-DCCED-INS-02-23-12 Dept. Affected DCCED  
Title Prescription Drug Specialty Tiers Appropriation Insurance Operations  
Allocation Insurance Operations  
Sponsor House Health & Social Services  
Requester House Health & Social Services OMB Component Number 354

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS								
Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES								

Estimated SUPPLEMENTAL (FY12) operating costs \_\_\_\_\_ (separate supplemental appropriation required,  
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs \_\_\_\_\_ (separate capital appropriation required)  
(discuss reasons and fund source(s) in analysis section)

**Why this fiscal note differs from previous version (if initial version, please note as such)**

Initial Version

Prepared by Linda Hall, Director  
Division Insurance  
Approved by JoEllen Hanrahan, Director Administrative Services  
Commerce, Community and Economic Development

Phone 907-465-2560  
Date/Time 2/23/12 5:00 PM  
Date 2/24/2012

FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

BILL NO. HB 218

**Analysis**

Section 1 lists legislative findings including the cost sharing obligations for certain drugs are becoming prohibitively expensive, that some health plans have established specialty tiers for drugs and are requiring patients to pay a higher percentage of the costs of these drugs, seeking to ensure patients are well informed about cost sharing requirements and recognizing the disparities caused by these cost burdens.

Section 2 lists legislative intent of providing patients with timely information relating to the cost of prescription drugs essential for treatment of certain diseases.

Section 3 amends AS 21.42 to only allow cost sharing for specialty tiers of drugs that exceed the cost sharing for a non-preferred brand drug, only if the insurer notifies the insured of the cost sharing at least 90 days before the terms apply.

These provisions have no anticipated fiscal impact on the Division of Insurance.



Rep. Wes Keller  
House Health and Social Services Committee, Chair  
State Capitol Room 432  
Juneau, AK 99801

Representative Keller,

February 2, 2012

On behalf of the Alaska MS Center and the National Multiple Sclerosis Society – Greater Northwest Chapter, we respectfully ask you to schedule a hearing on HB 218. This bill is of great importance to the multiple sclerosis (MS) community in Alaska and we are grateful that your committee has introduced the bill.

MS is a chronic, often disabling condition that attacks the central nervous system. Approximately 1100 Alaskans live with MS and every hour, someone in the United States is newly diagnosed with the disease. Due to significant efforts in medical research, several treatment options exist that can modify the disease course, treat exacerbations, manage symptoms, and improve function and safety – greatly enhancing the quality of life for people living with MS. Unfortunately, these treatments come at a significant cost, and that high cost prohibits many people with MS from accessing these medications, even individuals with health insurance.

Improving the transparency and predictability of prescription drug pricing will greatly help the MS community, though we ask that you go even further and amend the bill to prohibit the use of specialty tiers, a discriminatory practice that forces extra costs onto people with chronic conditions. People with MS, arthritis, hemophilia, and many types of cancers are facing extremely high drug costs and insurers are implementing pricing schemes that put the drugs out of reach for those who need them the most.

A stronger bill will help many people in Alaska, including Steven Robertson, a resident of Eagle River. Steven and his wife Brenda were shocked to receive a bill this past summer from their health insurer indicating that the cost of medication to treat Steve's MS has risen from \$30 per month to nearly \$1100. Steve and Brenda have been playing by the rules – they own a small business and pay their premiums every month expecting that they will receive adequate coverage, but their insurer changed the playing field on them. We need your help to make sure the Robertson's can continue to afford Steven's medications.

We stand ready to work with you to ensure the passage of this bill. In addition, Steven and Brenda would appreciate the opportunity to share their experiences with your committee. Please let us know if this is possible.

Antonia Fiflis-Fowler  
Executive Director  
Alaska MS Center  
info@alaskamscenter.org

Jim Freeburg  
Advocacy Director  
National MS Society – Greater Northwest Chapter  
jim.freeburg@nmss.org



# Alaska State Legislature

Please enter into the record my testimony to the (H)HSS  
committee name

committee on HB No. 218 dated 2/28/12  
bill/subject

- I strongly support HB 218 and encourage this committee to pass this Bill for my daughter + other Alaskans who take "specialty" drugs.
- My daughter was diagnosed with "juvenile idiopathic arthritis" when she was about 11. For about 5 years, she was only able to attend school part-time; she was hospitalized about 2 and up to 4 times per year for "joint injections"; she could not participate in sports because of the inflammation + instabilities in her joints.
- Then, she started taking "biologic" - a specialty drug! She began improving in 3 months and went back to school full-time.
- She is now in her 1st year at UAA - attending full-time. She was accepted into the UAA Honors College, has declared a chemistry major, + wants to study medicine!
- This specialty drug has been amazing for my daughter + our family. The cost is pretty amazing too - \$400/week or \$1600/month
- Because of the cost, I strongly support HB 218 because it gives us notice to make the right decisions.
- Please support this Bill to make sure my daughter, and other Alaskans like her, are able to continue on the path to be productive citizens of our communities + our State.

Signed: Barbara A. Jones *Barbara A. Jones*  
Testifier

myself

Representing (Optional)

P O Box 90041, Anchorage AK 99509

Address

907-248-0427

Phone No.