

JAN 16 2014

A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that as the costs of
2 specialty drugs increase, health plans have started creating a
3 cost-sharing mechanism known as specialty tiers. Specialty
4 tiers greatly increase the potential financial burden on
5 patients.

6 The legislature further finds that high out-of-pocket costs
7 for specialty drugs could preclude patients from complying with
8 the treatment protocols prescribed by their doctors. The
9 increased cost-sharing associated with specialty tier drugs
10 presents a significant financial strain on very ill individuals
11 and their families. The financial burden of specialty drugs
12 affects patients facing serious health conditions such as
13 hemophilia, human immunodeficiency virus (HIV), hepatitis,
14 multiple sclerosis, lupus, some cancers, rheumatoid arthritis,
15 and others.

16 The purpose of this Act is to:



- 1 (1) Impose dollar limits on specialty tiers in order to
- 2 protect patients from unaffordable coinsurance or
- 3 copayment amounts;
- 4 (2) Limit patients' coinsurance or copayment fees for
- 5 specialty tier drugs to \$150 per month for up to a
- 6 thirty day period supply of any single specialty tier
- 7 drug; and
- 8 (3) Allow patients to request an exception to obtain a
- 9 specialty drug that would not otherwise be available
- 10 on a health plan formulary.

11 SECTION 2. Chapter 431:10A, Hawaii Revised Statutes, is
12 amended by adding a new section to part I be appropriately
13 designated and to read as follows:

14 **"§431:10A- Specialty tier prescription coverage. (a)**
15 All individual and group accident and health or sickness
16 insurance policies that include coverage for prescription drugs
17 and use a specialty drug tier shall ensure that any required
18 copayment or coinsurance applicable to specialty drugs on a
19 specialty drug tier does not exceed \$150 per month for each
20 specialty drug, up to a thirty day supply of any single drug.

21 (b) All individual and group accident and health or
22 sickness insurance policies that include coverage for



1 prescription drugs and use a specialty drug formulary shall
2 implement an exceptions process that allows insureds to request
3 an exception to the formulary. Under such an exception, a non-
4 formulary specialty drug may be deemed covered under the
5 formulary if the prescribing physician determines that the
6 formulary drug for treatment of the same condition would not be
7 as effective for the insured, would have adverse effects for the
8 insured, or both. In the event an insured is denied an
9 exception, such denial shall be considered an adverse event and
10 will be subject to the health plan internal review process set
11 forth in section 432E-5 and the external review process set
12 forth in section 432E-34.

13 (c) All individual and group accident and health or
14 sickness insurance policies that include coverage for
15 prescription drugs shall be prohibited from placing all drugs in
16 a given class of drugs on a specialty drug tier.

17 (d) Nothing in this section shall be construed to require
18 an insurance policy to:

19 (1) Provide coverage for any additional drugs not
20 otherwise required by law;

21 (2) Implement specific utilization management techniques,
22 such as prior authorization or step therapy; or



1 (3) Cease use of tiered cost-sharing structures, including
2 those strategies used to incentivize use of preventive
3 services, disease management, and low-cost treatment
4 options.

5 (e) Nothing in this section shall be construed to require
6 a pharmacist to substitute a drug without the consent of the
7 prescribing physician.

8 (f) Nothing contained in any other provision of law or
9 rule shall preclude an insurance policy subject to this chapter
10 from requiring specialty drugs to be obtained through a
11 designated pharmacy or other source of such drugs.

12 (g) The commissioner shall have the authority to adopt
13 rules regarding the enforcement processes for this section.

14 (h) As used in this section, unless the context otherwise
15 requires:

16 "Class of drugs" means a group of medications having
17 similar actions designed to treat a particular disease process.

18 "Coinsurance" means a cost-sharing amount set as a dollar
19 value.

20 "Commissioner" means the insurance commissioner.

21 "Copayment" means a cost-sharing amount set as a dollar
22 value.



1 "Non-preferred drug" means a specialty drug formulary
2 classification for certain specialty drugs deemed non-preferred
3 and therefore subject to limits on eligibility for coverage or
4 to higher cost-sharing amounts than preferred specialty drugs.

5 "Preferred drug" means a specialty drug formulary
6 classification for certain specialty drugs deemed preferred and
7 therefore not subject to limits on eligibility for coverage or
8 not subject to higher cost-sharing amounts than non-preferred
9 specialty drugs.

10 "Specialty drug" means a prescription drug that:

11 (1) Is prescribed for a person with a:

12 (A) Complex or chronic medical condition, defined as
13 a physical, behavioral, or developmental
14 condition that may have no known cure, is
15 progressive, or can be debilitating or fatal if
16 left untreated or undertreated, such as multiple
17 sclerosis, hepatitis C, and rheumatoid arthritis;
18 or

19 (B) Rare medical condition, defined as any disease or
20 condition that affects fewer than 200,000 persons
21 in the United States, or about one in 1,500



1 people, such as cystic fibrosis, hemophilia, and
2 multiple myeloma;

3 (2) Has a total monthly prescription cost of \$600 or more;

4 (3) Is not stocked at a majority of retail pharmacies; and

5 (4) Has one or more of the following characteristics:

6 (A) It is an oral, injectable, or infusible drug
7 product;

8 (B) It has unique storage or shipment requirements,
9 such as refrigeration; and

10 (C) Patients receiving the drug require education and
11 support beyond traditional dispensing activities.

12 "Specialty drug formulary" means a specialty drug benefit
13 design that distinguishes, for purposes of eligibility for
14 coverage or for cost-sharing, between preferred drugs and non-
15 preferred drugs.

16 "Specialty drug tier" means a tier of cost-sharing designed
17 for specialty drugs that exceeds the amount for non-specialty
18 drugs and such a cost-sharing amount is based on coinsurance."

19 SECTION 3. Chapter 432, Hawaii Revised Statutes, is
20 amended by adding a new section to article 1 to be appropriately
21 designated and to read as follows:

1 "§432:1- Specialty tier prescription coverage. (a) All
2 individual and group hospital and medical service corporation
3 contracts that provide coverage for prescription drugs and use a
4 specialty drug tier shall ensure that any required copayment or
5 coinsurance applicable to specialty drugs on a specialty tier
6 does not exceed \$150 per month for each specialty drug, up to a
7 thirty day supply of any single drug.

8 (b) All individual and group hospital and medical service
9 corporation contracts that provide coverage for prescription
10 drugs and use a specialty drug formulary shall implement an
11 exceptions process that allows members to request an exception
12 to the formulary. Under such an exception, a non-formulary
13 specialty drug may be deemed covered under the formulary if the
14 prescribing physician determines that the formulary drug for
15 treatment of the same condition would not be as effective for
16 the member, would have adverse effects for the member, or both.
17 In the event a member is denied an exception, such denial shall
18 be considered an adverse event and will be subject to the health
19 plan internal review process set forth in section 432E-5 and the
20 external review process set forth in section 432E-34.

21 (c) All individual and group hospital and medical service
22 corporation contracts that provide coverage for prescription



1 drugs shall be prohibited from placing all drugs in a given
2 class of drugs on a specialty tier.

3 (d) Nothing in this section shall be construed to require
4 a contract to:

5 (1) Provide coverage for any additional drugs not
6 otherwise required by law;

7 (2) Implement specific utilization management techniques,
8 such as prior authorization or step therapy; or

9 (3) Cease utilization of tiered cost-sharing structures,
10 including those strategies used to incentivize use of
11 preventive services, disease management, and low-cost
12 treatment options.

13 (e) Nothing in this section shall be construed to require
14 a pharmacist to substitute a drug without the consent of the
15 prescribing physician.

16 (f) Nothing contained in any other provision of law or
17 rule shall preclude a contract subject to this chapter from
18 requiring specialty drugs to be obtained through a designated
19 pharmacy or other source of such drugs.

20 (g) The commissioner shall have the authority to adopt
21 rules regarding the enforcement processes for this section.



1 (h) The terms "class of drugs", "coinsurance",
2 "commissioner", "copayment", "non-preferred drug", "preferred
3 drug", "specialty drug", "specialty drug formulary", and
4 "specialty drug tier" shall have the same respective meanings as
5 in section 431:10A- ."

6 SECTION 4. Section 432D-23, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§432D-23 Required provisions and benefits.**

9 Notwithstanding any provision of law to the contrary, each
10 policy, contract, plan, or agreement issued in the State after
11 January 1, 1995, by health maintenance organizations pursuant to
12 this chapter, shall include benefits provided in sections
13 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-
14 116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120,
15 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126, [~~431:10A-~~
16 ~~122, and 431:10A-116.2,~~] and 431:10A- ., and chapter 431M."

17 SECTION 5. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19



1 SECTION 6. This Act shall take effect on July 1, 2014;
2 provided that this Act shall apply to all health plan contracts
3 issued or renewed in this State on or after January 1, 2015.

4

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S.B. NO. 2173

Report Title:

Specialty Tier Prescription Coverage; Specialty Drugs; Health Plan

Description:

Imposes dollar limits on specialty tiers in order to protect patients from unaffordable coinsurance or copayment amounts. Limits patients' coinsurance or copayment fees for specialty tier drugs to \$150 per month for up to a thirty day period supply. Allow patients to request an exception to obtain a specialty drug that would not otherwise be available on a health plan formulary.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

