

# SENATE BILL No. 1083

September 23, 2014, Introduced by Senator ROBERTSON and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
(MCL 500.100 to 500.8302) by adding section 3406u.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1        **SEC. 3406U. (1) AN INSURER THAT DELIVERS, ISSUES FOR DELIVERY,**  
2        **OR RENEWS IN THIS STATE AN EXPENSE-INCURRED HOSPITAL, MEDICAL, OR**  
3        **SURGICAL POLICY OR CERTIFICATE OR A HEALTH MAINTENANCE ORGANIZATION**  
4        **THAT ISSUES OR RENEWS A GROUP OR INDIVIDUAL POLICY CONTRACT IN THIS**  
5        **STATE SHALL COMPLY WITH ALL OF THE FOLLOWING IF THE COVERAGE FOR**  
6        **PRESCRIPTION DRUGS INCLUDES A TIERED FORMULARY:**

7            **(A) ANY REQUIRED OUT-OF-POCKET EXPENDITURE APPLICABLE TO A**  
8            **SINGLE DRUG SHALL NOT EXCEED \$100.00 FOR UP TO A 30-DAY SUPPLY.**

9            **(B) THE ANNUAL OUT-OF-POCKET EXPENDITURE FOR PRESCRIPTION**  
10        **DRUGS SHALL NOT EXCEED 50% OF THE DOLLAR AMOUNTS IN EFFECT UNDER**

1 SECTION 223(C) (2) (A) (II) OF THE INTERNAL REVENUE CODE, 26 USC  
2 223(C) (2) (A) (II), FOR SELF-ONLY OR FAMILY COVERAGE.

3 (C) AN EXCEPTIONS PROCESS MUST BE AVAILABLE FOR A COVERED  
4 INDIVIDUAL OR THE COVERED INDIVIDUAL'S PRESCRIBER TO REQUEST THAT A  
5 NONFORMULARY DRUG BE COVERED IN THE SAME MANNER AS A FORMULARY DRUG  
6 IF THE PRESCRIBER DETERMINES THAT THE FORMULARY DRUG FOR TREATMENT  
7 OF THE INDIVIDUAL'S CONDITION EITHER WOULD NOT BE AS EFFECTIVE FOR  
8 THE INDIVIDUAL, OR WOULD HAVE ADVERSE EFFECTS FOR THE INDIVIDUAL,  
9 OR BOTH. IF THE INSURER OR HEALTH MAINTENANCE ORGANIZATION DENIES  
10 THE REQUESTED EXCEPTION, BOTH OF THE FOLLOWING APPLY:

11 (i) THE DENIAL IS CONSIDERED AN ADVERSE EVENT.

12 (ii) THE DENIAL IS SUBJECT TO THE INSURER'S OR HEALTH  
13 MAINTENANCE ORGANIZATION'S INTERNAL REVIEW PROCESS AND THE STATE  
14 EXTERNAL REVIEW PROCESS.

15 (2) THIS SECTION DOES NOT REQUIRE AN INSURER OR A HEALTH  
16 MAINTENANCE ORGANIZATION TO DO ANY OF THE FOLLOWING:

17 (A) PROVIDE COVERAGE FOR ANY ADDITIONAL DRUGS NOT OTHERWISE  
18 REQUIRED BY LAW.

19 (B) STOP USING TIERED COST-SHARING STRUCTURES, INCLUDING  
20 STRATEGIES USED TO ENCOURAGE USE OF PREVENTIVE SERVICES, DISEASE  
21 MANAGEMENT, OR LOW-COST TREATMENT OPTIONS.

22 (3) THE DIRECTOR OF THE DEPARTMENT OF FINANCIAL AND INSURANCE  
23 SERVICES MAY ADOPT RULES UNDER THE ADMINISTRATIVE PROCEDURES ACT OF  
24 1969, 1969 PA 306, MCL 24.201 TO 24.328, TO IMPLEMENT THIS SECTION.

25 (5) AS USED IN THIS SECTION:

26 (A) "OUT-OF-POCKET EXPENDITURE" MEANS A COPAYMENT,  
27 COINSURANCE, DEDUCTIBLE, OR ANOTHER COST-SHARING MECHANISM.

1           (B) "TIERED FORMULARY" MEANS A FORMULARY THAT PROVIDES  
2 COVERAGE FOR PRESCRIPTION DRUGS AS PART OF A HEALTH PLAN FOR WHICH  
3 A COVERED INDIVIDUAL'S OUT-OF-POCKET EXPENDITURE OBLIGATIONS ARE  
4 DETERMINED BY CATEGORY OR TIER OF PRESCRIPTION DRUGS, AND THAT  
5 INCLUDES 2 OR MORE DIFFERENT TIERS.

6           Enacting section 1. This amendatory act applies to policies,  
7 certificates, and contracts delivered, executed, issued, amended,  
8 adjusted, or renewed by an insurer or a health maintenance  
9 organization under this part, beginning 180 days after the date  
10 this amendatory act is enacted into law.