SENATE BILL No. 354

May 27, 2015, 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 3406t.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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SECTION 223(C)(2)(A)(*ii*) OF THE INTERNAL REVENUE CODE OF 1986, 26 USC 223(C)(2)(A)(*ii*), FOR SELF-ONLY OR FAMILY COVERAGE.

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

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

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

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

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

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

(3) THE DIRECTOR MAY PROMULGATE RULES UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, TO IMPLEMENT THIS SECTION.

(4) AS USED IN THIS SECTION:

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

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

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

Enacting section 2. This amendatory act takes effect 90 days after the date it is enacted into law.