



# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 984

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S.P. 329

In Senate, March 12, 2013

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**An Act To Amend the Health Plan Improvement Law Regarding  
Prescription Drug Step Therapy and Prior Authorization**

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Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator GRATWICK of Penobscot.  
Cosponsored by Representative MORRISON of South Portland and  
Senators: CRAVEN of Androscoggin, LACHOWICZ of Kennebec, PATRICK of Oxford,  
Representatives: EVANGELOS of Friendship, JONES of Freedom, KUSIAK of Fairfield,  
NADEAU of Winslow, SAUCIER of Presque Isle.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 24-A MRSA §4304, sub-§1-A** is enacted to read:

3 **1-A. Prescription drug step therapy.** The clinical review criteria used by a carrier  
4 in approving prescription drugs:

5 A. Must adhere to federal Food and Drug Administration prescription drug labeling;  
6 and

7 B. May not require failure on the same medication on more than one occasion for  
8 patients continuously enrolled in a health plan offered by the carrier.

9 Nothing in this subsection may be construed to prevent a health care practitioner from  
10 prescribing a medication for an off-label use or from prescribing a medication on more  
11 than one occasion when the health care practitioner determines it is medically  
12 appropriate.

13 A carrier that requires failure on one or more drugs as a condition of prior authorization  
14 for a nonpreferred drug may not collect a copayment greater than the lowest cost  
15 preferred drug copayment in the same drug class from an enrollee having satisfied the  
16 prior authorization requirements, as judged by the prescribing health care practitioner.  
17 Nothing in this subsection may be construed to prevent a carrier from collecting tiered  
18 copayments from enrollees not subject to the prior authorization requirements set forth in  
19 this subsection.

20 **Sec. 2. 24-A MRSA §4304, sub-§2,** as amended by PL 1999, c. 742, §12, is  
21 further amended to read:

22 **2. Prior authorization of nonemergency services.** Requests by a provider for prior  
23 authorization of a nonemergency service must be answered by a carrier within ~~2-business~~  
24 ~~days~~ 24 hours by telephone or other telephonic or electronic communications device.  
25 Both the provider and the enrollee on whose behalf the authorization was requested must  
26 be notified by the carrier of its determination. If the information submitted is insufficient  
27 to make a decision, the carrier shall notify the provider within ~~2-business days~~ 24 hours  
28 by telephone or other telephonic or electronic communications device of the additional  
29 information necessary to render a decision. If the carrier determines that outside  
30 consultation is necessary, the carrier shall notify the provider and the enrollee for whom  
31 the service was requested within ~~2-business days~~ 24 hours by telephone or other  
32 telephonic or electronic communications device. The carrier shall make a good faith  
33 estimate of when the final determination will be made and contact the enrollee and the  
34 provider as soon as practicable. ~~Notification requirements under this subsection are~~  
35 ~~satisfied by written notification postmarked within the time limit specified.~~ If a carrier  
36 fails to respond within 24 hours after receiving a completed prior authorization request  
37 from a health care practitioner, the prior authorization request is deemed to have been  
38 granted.

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## **SUMMARY**

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This bill establishes certain standards for prescription drug step therapy policies. The

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bill also reduces the time for health insurance carriers to respond to nonemergency

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prescription drug prior authorization requests from 2 days to 24 hours.