Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

State of Arkansas
85th General Assembly
Regular Session, 2005

A Bill

SENATE BILL 1053

By: Senator Salmon

For An Act To Be Entitled

AN ACT TO ESTABLISH MINIMUM REQUIREMENTS FOR A STATE MEDICAID PROGRAM PREFERRED DRUG LIST; TO REQUIRE THE STATE MEDICAID PROGRAM TO USE A DRUG REVIEW COMMITTEE IN THE DEVELOPMENT OF A PREFERRED DRUG LIST; TO PROVIDE FOR THE MONITORING OF THE IMPACT AND EFFECTIVENESS OF THE PREFERRED DRUG LIST; TO PROVIDE FOR PERIODIC REPORTING TO THE GENERAL ASSEMBLY; AND FOR OTHER PURPOSES.

Subtitle

AN ACT TO ESTABLISH MINIMUM REQUIREMENTS AND PERIODIC REPORTING REGARDING A MEDICAID PRESCRIPTION DRUG LIST.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 20, Chapter 76 is amended to add an additional subchapter to read as follows:

20-76-501. Title.

This subchapter shall be known and may be cited as the "Arkansas Medicaid Recipient Preferred Drug List Act".

20-76-502. Purpose and intent.

(a) This subchapter is intended to:

(1) Establish minimum requirements for the implementation and operation of a preferred drug list by the state Medicaid program;

(2) Require the monitoring of the impact of a preferred drug list on the state Medicaid program; and

(3) Require quarterly reporting by the Department of Human Services to the House and Senate Interim Committees on Public Health, Welfare, and Labor regarding the effectiveness and fiscal impact of any preferred drug list used by the state Medicaid program.

(b) The purposes of this subchapter are to:

(1) Promote, preserve, and protect the public health, safety, and welfare of Medicaid program recipients; and

(2) Monitor and measure the effectiveness of any state Medicaid program preferred drug list from a patient-care and economic cost-benefit analysis through periodic reporting to the General Assembly.

20-76-503. Application.

This subchapter shall be applicable to any preferred drug list implemented by the state Medicaid program.

20-76-504. Definitions.

As used in this subchapter:

(1) “Call Center” means to the facilities required to administer prior authorization requests and coordinate communication with providers and pharmacies;

(2) “Medical Directors” means individuals who are licensed to practice medicine in the State of Arkansas and are employed by the Evidence-based Prescription Drug Program contractor for the purpose of;

(A) Coordinating Drug Review Committee operations, participating in analysis of utilization and cost data relevant to preferred drug list decisions;

(B) Developing related prior authorization criteria;

(C) Providing oversight to the activities associated with prior authorization for medications which are not preferred; and

(D) Communicating with individual Medicaid providers regarding the procedures and decisions relating to the preferred drug list;

(3) "Preferred drug list" means a listing of prescription drugs and other medications within a therapeutic category that the state Medicaid program will pay for without requiring a prior authorization;

(4) “Prior authorization” means that Medicaid payment for a non-preferred drug in a therapeutic class for which one (1) or more preferred drugs has been selected is conditioned upon authorization of the Department of Human Services or its designee;

(5) "Project Director" means the person selected by the Department of Human Services to be responsible for the development, implementation, and operation of the preferred drug list; and

(6) "State Medicaid program " means the Medicaid medical assistance program, Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. administered by the Department of Human Services;

(7) “Therapeutic classification” mean similar medications or medications used to treat a specific condition for the purposes of identifying one (1) or more medication candidates for the preferred drug list;

(8)(A) “Therapeutic class review” means the initial evaluation of similar medications or medications used to treat a specific condition for the purpose of identifying one (1) or more medication candidates for the preferred drug list of the state Medicaid program.

(B) “Therapeutic class review”:

(i) Shall apply to the initial evaluation of a group of medications; and

(ii) Involves a comprehensive review of appropriate, relevant scientific evidence regarding safety and effectiveness.

(9)(A) “Therapeutic class reevaluation” means examination of appropriate and relevant scientific evidence regarding safety and effectiveness of medications previously subject to a therapeutic class review.

(B) The purpose of a therapeutic class reevaluation is to consider scientific evidence developed since the initial therapeutic class review, or the last therapeutic class reevaluation, which might impact the balance of evidence supporting preferred drug list selection.

(C) “Therapeutic class reevaluation” involves consideration of new scientific information as well as reevaluation of previously available scientific evidence.

20-76-505. Drug Review Committee -- Created -- Membership.

(a)(1) The Drug Review Committee is created within the Medical Services Division of the Department of Human Services.

(2) The state Medicaid program shall cooperate with the Drug Review Committee in the development and review of a preferred drug list that shall include, but not be limited to, consideration of the deletion or addition of any prescription drug or other medication.

(b)(1) The committee shall consist of six (6) regular voting members to be selected and submitted to the Department of Human Services for final approval as follows:

(A) Three (3) physician members selected by the Evidence-based Prescription Drug Program contractor with input from the Arkansas Medical Society; and

(B) Three (3) pharmacist members selected by the Arkansas Pharmacists Association.

(2)(A) Each of the three (3) physician members shall be:

(i) Residents of the State of Arkansas; and

(ii) Licensed to practice medicine and actively engaged within the preceding five (5) years in the practice of medicine in the State of Arkansas

(B) Each of the three (3) pharmacists shall be:

(i) Residents of the State of Arkansas; and

(ii) Licensed to practice and actively engaged within the preceding five (5) years in the practice of pharmacy in the State of Arkansas.

(c)(1) Each member shall serve a term of six (6) months.

(2) Members may be reappointed to serve on the committee at the discretion of the Evidence-based Prescription Drug Program contractor and the Department of Human Services.

(d) All decisions of the committee shall be made by a recorded majority vote of the members of the committee.

(e) The Director of the Drug Review Committee project or his or her designee shall be an ex officio member of the committee.

(f) Any vacancy on the committee that occurs for any reason other than the expiration of a term shall be filled for the unexpired term in the same manner as the original appointment.

(g) Members of the committee shall be reimbursed for their services on

the committee.

(h) As part of its deliberations, the committee may use the professional expertise of health care providers who are specialists in a certain field and who are licensed in the State of Arkansas.

(i)(1) The Department of Human Services shall not take final action to establish a preferred drug or drugs within more than twelve (12) therapeutic classifications each year.

(2) Therapeutic Class Reevaluations may be conducted as warranted by the publication of credible, new evidence.

(j) The committee shall perform reviews of therapeutic categories by using available data and evidence-based reviews.

(k)(1) All meetings of the committee shall be open to the public.

(2)(A) The committee shall provide a minimum of thirty (30) days' advance public notice for all of its meetings.

(B) The public notice shall:

(i) Be posted on the Department of Human Services Medicaid website; and

(ii) Include an agenda of the items to be considered by the committee at the meetings.

(3)(A)(i) Public comment shall be limited to fifteen (15) minutes per drug.

(ii) If several persons wish to speak on the same drug, the time shall be divided among the persons with a maximum of three (3) persons receiving a maximum speaking time of five (5) minutes each.

(B) Public comment shall be heard in advance of the committee's making any recommended changes to a therapeutic category.

20-76-506. Minimum requirements.

(a) Any preferred drug list used by the state Medicaid program shall satisfy the following minimum requirements:

(1) A minimum of sixty (60) days' advance notice shall be given to all state Medicaid program health care providers regarding any products placed on a preferred drug list and for any products that will require prior authorization;

(2) Supplemental rebates may be used by the state Medicaid program but shall not be mandatory for a product to be included on the

preferred drug list;

(3)(A) All new drug products approved by the United States Food and Drug Administration in a therapeutic category previously reviewed by the Drug Review Committee shall be placed in a non-preferred position on the preferred drug list and shall be subject to prior authorization.

(B) When new drug products are defined as new chemical entities, the new drug products shall be considered for placement on the preferred drug list by the Drug Review Committee within one hundred eighty (180) days of the new drug's introduction to the market.

20-76-507. Report to the General Assembly.

(a) The state Medicaid program shall monitor and track the impact of any preferred drug list.

(b) The Department of Human Services shall submit an annual report on or before December 31 of each year to the House and Senate Interim Committees on Public Health, Welfare, and Labor summarizing both process and outcome measures regarding the effectiveness and fiscal impact of any preferred drug list used by the state Medicaid program.

SECTION 2. Effective date. This subchapter shall be effective July 1, 2005.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that controlling the rate of growth of prescription drug costs is important to preserve the State's ability to maintain benefits to recipients and payments to provider; an Evidence-based Prescription Drug Program was established in October, 2004; that a Medicaid preferred drug list is under development; and that the intent of this subchapter is to continue the ongoing development of the preferred drug list, and to add to the existing Medicaid preferred drug list; and that this act is immediately necessary because any delay in the implementation of the preferred drug list program beyond the beginning of the 2005 fiscal year would put the lives and health of Medicaid recipients at unnecessary risk. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005.