

By: Senator(s) Burton, Dearing

To: Public Health and Welfare

SENATE BILL NO. 2737  
(As Sent to Governor)

1 AN ACT TO PROVIDE FOR THE STEP THERAPY OR FAIL-FIRST  
2 PROTOCOLS BY A PRESCRIBING PRACTITIONER UNDER CERTAIN  
3 CIRCUMSTANCES; AND FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** (1) When medications for the treatment of any  
6 medical condition are restricted for use by an insurer by a step  
7 therapy or fail-first protocol, the prescribing practitioner shall  
8 have access to a clear and convenient process to expeditiously  
9 request an override of that restriction from the insurer. An  
10 override of that restriction shall be expeditiously granted by the  
11 insurer under the following circumstances:

12 (a) The prescribing practitioner can demonstrate, based  
13 on sound clinical evidence, that the preferred treatment required  
14 under step therapy or fail-first protocol has been ineffective in  
15 the treatment of the insured's disease or medical condition; or

16 (b) Based on sound clinical evidence or medical and  
17 scientific evidence:

18 (i) The prescribing practitioner can demonstrate  
19 that the preferred treatment required under the step therapy or  
20 fail-first protocol is expected or likely to be ineffective based  
21 on the known relevant physical or mental characteristics of the  
22 insured and known characteristics of the drug regimen; or

23 (ii) The prescribing practitioner can demonstrate  
24 that the preferred treatment required under the step therapy or  
25 fail-first protocol will cause or will likely cause an adverse  
26 reaction or other physical harm to the insured.



27           (2) The duration of any step therapy or fail-first protocol  
28 shall not be longer than a period of thirty (30) days when the  
29 treatment is deemed clinically ineffective by the prescribing  
30 practitioner. When the prescribing practitioner can demonstrate,  
31 through sound clinical evidence, that the originally prescribed  
32 medication is likely to require more than thirty (30) days to  
33 provide any relief or an amelioration to the insured, the step  
34 therapy or fail-first protocol may be extended up to seven (7)  
35 additional days.

36           (3) As used in this section:

37           (a) "Insurer" means any hospital, health, or medical  
38 expense insurance policy, hospital or medical service contract,  
39 employee welfare benefit plan, contract or agreement with a health  
40 maintenance organization or a preferred provider organization,  
41 health and accident insurance policy, or any other insurance  
42 contract of this type, including a group insurance plan. However,  
43 the term "insurer" does not include a preferred provider  
44 organization that is only a network of providers and does not  
45 define health care benefits for the purpose of coverage under a  
46 health care benefits plan.

47           (b) "Practitioner" has the same meaning as defined in  
48 Section 73-21-73.

49           **SECTION 2.** This act shall take effect and be in force from  
50 and after January 1, 2012.

