

By: Representatives Creekmore IV, Lancaster, To: Insurance  
Mickens

HOUSE BILL NO. 1143

1 AN ACT TO PROHIBIT HEALTH BENEFIT PLANS FROM REQUIRING STEP  
2 THERAPY OR FAIL-FIRST PROTOCOLS BEFORE THE PLAN PROVIDES COVERAGE  
3 OF CERTAIN PRESCRIPTION DRUGS TO TREAT ADVANCED, METASTATIC CANCER  
4 AND ASSOCIATED CONDITIONS; TO AMEND SECTION 83-9-36, MISSISSIPPI  
5 CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR  
6 RELATED PURPOSES.

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

8 **SECTION 1.** (1) As used in this section, the following terms  
9 shall be defined as provided in this subsection:

10 (a) "Associated conditions" means the symptoms or side  
11 effects associated with advanced, metastatic cancer or its  
12 treatment and which, in the judgment of the health care  
13 practitioner, further jeopardizes the health of a patient if left  
14 untreated.

15 (b) "Advanced, metastatic cancer" means cancer that has  
16 spread from the primary or original site of the cancer to nearby  
17 tissues, lymph nodes, or other areas or parts of the body.

18 (c) "Health benefit plan" means a policy, contract,  
19 certificate or agreement entered into, offered by or issued by an



20 insurer to provide, deliver, arrange for, pay for or reimburse any  
21 of the costs of health care services.

22 (2) A health benefit plan that provides coverage for  
23 advanced, metastatic cancer and associated conditions may not  
24 require, before the health benefit plan provides coverage of a  
25 prescription drug approved by the United States Food and Drug  
26 Administration, that the enrollee:

27 (a) Fail to successfully respond to a different drug;

28 or

29 (b) Prove a history of failure of a different drug.

30 (3) This section applies only to a drug the use of which is:

31 (a) Consistent with best practices for the treatment of  
32 advanced, metastatic cancer or an associated condition;

33 (b) Supported by peer-reviewed, evidence-based  
34 literature; and

35 (c) Approved by the United States Food and Drug  
36 Administration.

37 **SECTION 2.** Section 83-9-36, Mississippi Code of 1972, is  
38 amended as follows:

39 83-9-36. (1) When medications for the treatment of any  
40 medical condition are restricted for use by an insurer by a step  
41 therapy or fail-first protocol, the prescribing practitioner shall  
42 have access to a clear and convenient process to expeditiously  
43 request an override of that restriction from the insurer. An



44 override of that restriction shall be expeditiously granted by the  
45 insurer under the following circumstances:

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

50 (b) Based on sound clinical evidence or medical and  
51 scientific evidence:

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

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

61 (2) The duration of any step therapy or fail-first protocol  
62 shall not be longer than a period of thirty (30) days when the  
63 treatment is deemed clinically ineffective by the prescribing  
64 practitioner. When the prescribing practitioner can demonstrate,  
65 through sound clinical evidence, that the originally prescribed  
66 medication is likely to require more than thirty (30) days to  
67 provide any relief or an amelioration to the insured, the step



68 therapy or fail-first protocol may be extended up to seven (7)  
69 additional days.

70 (3) As used in this section:

71 (a) "Insurer" means any hospital, health, or medical  
72 expense insurance policy, hospital or medical service contract,  
73 employee welfare benefit plan, contract or agreement with a health  
74 maintenance organization or a preferred provider organization,  
75 health and accident insurance policy, or any other insurance  
76 contract of this type, including a group insurance plan. However,  
77 the term "insurer" does not include a preferred provider  
78 organization that is only a network of providers and does not  
79 define health care benefits for the purpose of coverage under a  
80 health care benefits plan.

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

83 (4) The provisions of Section 1 of this act shall supersede  
84 the provisions of this section to the extent of any conflict  
85 between Section 1 and this section.

86 **SECTION 3.** This act shall take effect and be in force from  
87 and after July 1, 2024.

