

By: Representative Deweese

To: Insurance

HOUSE BILL NO. 1602

1 AN ACT TO AMEND SECTION 83-9-36, MISSISSIPPI CODE OF 1972, TO  
 2 PROVIDE THAT AN INSURER SHALL GRANT OR DENY A REQUEST FOR AN  
 3 OVERRIDE OF STEP THERAPY OR FAIL-FIRST PROTOCOL WITHIN SEVENTY-TWO  
 4 HOURS OF RECEIVING THE REQUEST; TO PROVIDE THAT IF EXIGENT  
 5 CIRCUMSTANCES EXIST, THE INSURER SHALL GRANT OR DENY THE REQUEST  
 6 WITHIN TWENTY-FOUR HOURS; TO PROVIDE FOR AN APPEAL; TO PROVIDE  
 7 THAT IF THE TIMELINE IS NOT MET, THE REQUEST SHALL BE DEEMED  
 8 GRANTED; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 83-9-36, Mississippi Code of 1972, is  
 11 amended as follows:

12 83-9-36. (1) When medications for the treatment of any  
 13 medical condition are restricted for use by an insurer by a step  
 14 therapy or fail-first protocol, the prescribing practitioner shall  
 15 have access to a clear and convenient process to expeditiously  
 16 request an override of that restriction from the insurer. An  
 17 override of that restriction shall be expeditiously granted by the  
 18 insurer under the following circumstances:

19 (a) The prescribing practitioner can demonstrate, based  
 20 on sound clinical evidence, that the preferred treatment required



21 under step therapy or fail-first protocol has been ineffective in  
22 the treatment of the insured's disease or medical condition; or

23 (b) Based on sound clinical evidence or medical and  
24 scientific evidence:

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

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

34 (2) An insurer shall grant or deny a request for an override  
35 of step therapy or fail-first protocol within seventy-two (72)  
36 hours of receiving the request. In cases in which exigent  
37 circumstances exist, the insurer shall grant or deny the request  
38 within twenty-four (24) hours of receiving the request.

39 (a) The denial of a request for an override of step  
40 therapy or fail-first protocol may be appealed. The insurer shall  
41 grant or deny the appeal within seventy-two (72) hours of  
42 receiving the appeal. In cases in which exigent circumstances  
43 exist, the insurer shall grant or deny the appeal within  
44 twenty-four (24) hours of receiving the appeal.



45           (b) If a response by an insurer is not received within  
46 the time allotted under this section, the request for an override  
47 of step therapy or fail-first protocol or the appeal of a denial  
48 of such request shall be deemed granted.

49           ( \* \* \*3) The duration of any step therapy or fail-first  
50 protocol shall not be longer than a period of thirty (30) days  
51 when the treatment is deemed clinically ineffective by the  
52 prescribing practitioner. When the prescribing practitioner can  
53 demonstrate, through sound clinical evidence, that the originally  
54 prescribed medication is likely to require more than thirty (30)  
55 days to provide any relief or an amelioration to the insured, the  
56 step therapy or fail-first protocol may be extended up to seven  
57 (7) additional days.

58           ( \* \* \*4) As used in this section:

59           (a) "Insurer" means any hospital, health, or medical  
60 expense insurance policy, hospital or medical service contract,  
61 employee welfare benefit plan, contract or agreement with a health  
62 maintenance organization or a preferred provider organization,  
63 health and accident insurance policy, or any other insurance  
64 contract of this type, including a group insurance plan. However,  
65 the term "insurer" does not include a preferred provider  
66 organization that is only a network of providers and does not  
67 define health care benefits for the purpose of coverage under a  
68 health care benefits plan.



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

71 (5) The Commissioner of Insurance may adopt rules and  
72 regulations for the administration of this chapter.

73 **SECTION 2.** This act shall take effect and be in force from  
74 and after July 1, 2024.

