

By: Senator(s) Wiggins

To: Insurance

SENATE BILL NO. 2264

1 AN ACT TO PROHIBIT HEALTH INSURANCE PLANS OR POLICIES FROM
2 REQUIRING THE ENROLLEE TO UNDERGO STEP THERAPY BEFORE RECEIVING
3 CERTAIN PRESCRIPTION DRUGS TO TREAT ADVANCED, METASTATIC CANCER;
4 TO AMEND SECTION 83-9-36, MISSISSIPPI CODE OF 1972, TO CONFORM TO
5 THE PROVISIONS OF THE ACT; AND FOR RELATED PURPOSES.

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

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

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

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

17 (b) "Health plan or policy" means any hospital, health
18 or medical expense insurance policy, hospital or medical service
19 contract, employee welfare benefit plan, contract or agreement



20 with a health maintenance organization or a preferred provider
21 organization, health and accident insurance policy, or any other
22 insurance contract of this type, including a group insurance plan
23 and the State and School Employees' Life and Health Insurance
24 Plan.

25 (2) Any health plan or policy delivered, issued for
26 delivery, or renewed on or after January 1, 2025, that provides
27 coverage for advanced, metastatic cancer and associated conditions
28 may not require, before the health benefit plan provides coverage
29 of a prescription drug approved by the United States Food and Drug
30 Administration, that the enrollee:

31 (a) Fails to successfully respond to a different drug;
32 or

33 (b) Proves a history of failure of a different drug.

34 (3) This act applies only to a drug the use of which is:

35 (a) Consistent with best practices for the treatment of
36 advanced, metastatic cancer; and

37 (b) Supported by peer-reviewed medical literature.

38 (4) This act applies to coverage under a group health
39 benefit plan or policy provided to a resident of this state
40 regardless of whether the group policy, agreement or contract is
41 delivered, issued for delivery or renewed in this state.

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



44 83-9-36. (1) When medications for the treatment of any
45 medical condition are restricted for use by an insurer by a step
46 therapy or fail-first protocol, the prescribing practitioner shall
47 have access to a clear and convenient process to expeditiously
48 request an override of that restriction from the insurer. An
49 override of that restriction shall be expeditiously granted by the
50 insurer under the following circumstances:

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

55 (b) Based on sound clinical evidence or medical and
56 scientific evidence:

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

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

66 (2) The duration of any step therapy or fail-first protocol
67 shall not be longer than a period of thirty (30) days when the
68 treatment is deemed clinically ineffective by the prescribing



69 practitioner. When the prescribing practitioner can demonstrate,
70 through sound clinical evidence, that the originally prescribed
71 medication is likely to require more than thirty (30) days to
72 provide any relief or an amelioration to the insured, the step
73 therapy or fail-first protocol may be extended up to seven (7)
74 additional days.

75 (3) As used in this section:

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

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

88 (4) The provisions of this section shall not apply to
89 Section 1 of this act.

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

