

# SENATE BILL NO. 638

November 01, 2023, Introduced by Senator KLINEFELT and referred to the Committee on Health Policy.

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
by amending section 3406o (MCL 500.3406o), as amended by 2020 PA  
322; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 3406o. (1) An insurer that delivers, issues for delivery,  
2 or renews in this state a health insurance policy that provides  
3 coverage for prescription drugs and limits those benefits to drugs  
4 included in a formulary shall do all of the following:

5           (a) Provide for participation of participating physicians,

1 dentists, and pharmacists in the development of the formulary.

2 (b) Disclose to health care providers and upon request to  
3 insureds the nature of the formulary restrictions.

4 (c) Provide for exceptions from the formulary limitation when  
5 a nonformulary alternative is a medically necessary and appropriate  
6 alternative. This subdivision does not prevent an insurer from  
7 establishing prior authorization requirements or another process  
8 for consideration of coverage or higher cost-sharing for  
9 nonformulary alternatives.

10 (2) On a request for an expedited review of coverage for a  
11 nonformulary alternative based on exigent circumstances, an insurer  
12 shall make a determination and notify the enrollee or the  
13 enrollee's designee and the prescribing physician, or other  
14 prescriber, as appropriate, of the determination within 24 hours  
15 after the insurer receives all information necessary to determine  
16 whether the exception should be granted. For purposes of this  
17 subsection, exigent circumstances exist when an enrollee is  
18 suffering from a health condition that may seriously jeopardize the  
19 enrollee's life, health, or ability to regain maximum function or  
20 when an enrollee is undergoing a current course of treatment using  
21 a nonformulary drug.

22 (3) If subsection (2) does not apply, an insurer shall make a  
23 determination on coverage for a nonformulary alternative and notify  
24 the enrollee or the enrollee's designee and the prescribing  
25 physician, or other prescriber, as appropriate, of the  
26 determination within 72 hours after the insurer receives all  
27 information necessary to determine whether the exception should be  
28 granted.

29 ~~(4) This section is subject to section 3406w.~~

**1** Enacting section 1. Section 3406w of the insurance code of  
**2** 1956, 1956 PA 218, MCL 500.3406w, is repealed.