



Texas Association of Health Plans

1001 Congress Ave., Suite 300

Austin, Texas 78701

P: 512.476.2091

www.tahp.org

April 6, 2023

Dear Chairman Harless and Members of the Select Committee on Health Care Reform,

As the statewide trade association representing health insurers, HMOs, Medicaid managed care, and other health plans that serve over 20 million Texans, the Texas Association of Health Plans (TAHP) is committed to ensuring that Texas families and employers have access to affordable, comprehensive, and high-quality coverage.

We write to express our support for HB 3286, which would create new Medicaid prescription drug patient protections by adding exceptions to the HHSC's preferred drug list (PDL). This bill is crucial as it gives Medicaid patients access to the same exception process that patients have in the private health insurance market. Unfortunately, Texas Medicaid patients do not currently have these same protections and are often forced off medications that work for them, often causing delays and denials of care.

HB 3286 would ensure Texas Medicaid patients will not be forced to change to a drug on the state's Medicaid Preferred Drug List (PDL) if:

- The drug required is contraindicated or will likely cause an adverse reaction
- The drug is expected to be ineffective
- The patient has tried and failed the drug
- The patient is stable on another drug
- The drug is not in the best interest of the patient

The state's Vendor Drug Program currently allows a few limited exceptions to the PDL when there is treatment failure, a contraindication, or an allergic reaction to a preferred drug. However, Medicaid patients are not eligible for an exception if the drug is expected to cause a barrier to adhering to the plan of care, worsen the patient's functional ability, or when the enrollee was stable on a drug that was preferred in a previous version of the PDL. In each of these situations, requiring a patient to take a different medication could lead to patient harm.



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Additionally, Managed Care Organizations (MCOs) must achieve 95% compliance with the state's PDL or face liquidated damages. This means that MCOs face contract damages if they do not force people off of drugs that are working for them, when they state signs a new rebate deal. This restricts Texans' access to medications prescribed by their physicians and can lead to serious health consequences delays and denials of care. Currently, about 30% of all drug denials are the result of the PDL. MCOs are now put in a situation where they have to choose between contract compliance or patient outcomes.

Prior to implementation of the 95% compliance change in contract, MCOs frequently honored requests from patients and their providers to override preferred drug restrictions when information was provided that changing medications could worsen the patient's condition. With these new liquid damages requirements, MCOs will be financially penalized if they don't force Texans off medications on which they are stable.

We appreciate your attention to this matter and encourage the Legislature to consider the important patient protections in HB 3286. Adopting these exceptions would provide consistency for patients, providers, and issuers, regardless of the type of coverage they have.

Sincerely,

A handwritten signature in black ink that reads "Jamie Dudensing". The signature is written in a cursive, flowing style.

Jamie Dudensing, RN
CEO
Texas Association of Health Plans