



Texas Association of Health Plans
1001 Congress Ave., Suite 300
Austin, Texas 78701
P: 512.476.2091
www.tahp.org

May 2023

Re: TAHP Supports HB 3286

Dear Chairwoman Kolkhorst and Members of the Committee on Health & Human Services,

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 support HB 3286, which would create new Medicaid prescription drug patient protections by adding exceptions to the state's preferred drug list (PDL), expand access to prescribed medications, as well as promote greater accountability within the state's Vendor Drug Program (VDP) and Drug Utilization Review (DUR) Board.

HB 3286 Increase Patient Protections for Medicaid Enrollees

This bill is crucial as it gives Medicaid patients access to a similar 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, will likely cause an adverse reaction, or is expected to be ineffective
- The patient has tried and failed the drug
- The patient is stable on another mental health drug received upon hospital discharge
- The drug is experiencing a shortage



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VDP 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.

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. HB 3286 addresses these concerns by ensuring MCOs will not face liquidated damages for non-compliance with the state's PDL.

HB 3286 Expands Access to Prescribed Medications

HB 3286 requires the Texas Health and Human Service Commission to develop an expedited review process to add medicines to the preferred drug list and also grants patients a way to access new drugs on the market prescribed by their physicians that have not yet been reviewed by the state's drug board. The state moves slowly to make important changes backed by science. Those "clinical edits" only happen quarterly, with no exceptions. When drugs have new uses or manufacturers change their recommended guidelines, the state adopts those changes slowly. Under the existing process, new drugs are also delayed. Delaying drug reviews and failing to adjust guidance on medications is dangerous for patients and costly for health plans.

Further, because Texas does not allow Medicaid enrollees to access all of the drugs that are federally available in Medicaid, HB 3286 ensures that all drugs and national drug codes that are



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on the federal Medicaid drug program are available to Texans. HB 3286 also requires the preferred drug list to include all equivalent generics when only one generic is listed as preferred. We are unaware of any other state with Texas' existing policies.

HB 3286 Promotes Greater Accountability

HB 3286 promotes greater accountability by allowing three voting members on the DUR Board for managed care plans and allowing those representatives to participate in executive committee meetings. The DUR Board develops recommendations for the PDL, suggests clinical prior authorizations for outpatient prescription drugs, recommends educational interventions for Medicaid providers, and reviews drug utilization across the Medicaid program. Two MCO representatives currently participate on the DUR Board but do not have voting privileges and are not allowed to participate in executive meetings where decisions related to drug placement on the formulary and other decisions are discussed.

MCOs assume full financial risk in exchange for providing all necessary care for the Texans they serve. The state currently hinders this effective advocacy of member outcomes by denying Medicaid health plans a voice in the most utilized benefit in Medicaid.

We appreciate your attention to this matter and encourage the Legislature to consider the important patient protections in HB 3286. Adopting these exceptions and promoting greater program accountability 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