

1 HB273  
2 135712-1  
3 By Representative McClendon  
4 RFD: Health  
5 First Read: 09-FEB-12

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8 SYNOPSIS: This bill would create the Ensuring  
9 Appropriate Access to Medicines for Premature  
10 Infants Act to require the state Medicaid Agency to  
11 develop and implement policies and procedures to  
12 streamline the process for access to covered  
13 outpatient drugs for premature infants and to  
14 develop standards and common practices applicable  
15 to Medicaid programs that ensure timely and  
16 appropriate access to care for premature infants.

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT

21  
22 To require the state Medicaid Agency to develop and  
23 implement policies and procedures to streamline the process  
24 for access to covered outpatient drugs for premature infants  
25 and to ensure timely and appropriate access to care for  
26 premature infants.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. This act shall be known as and may be  
2 cited as the Ensuring Appropriate Access to Medicines for  
3 Premature Infants Act.

4           Section 2. The Legislature makes the following  
5 findings of fact:

6           (1) Premature populations incur disproportionate  
7 costs to state Medicaid programs.

8           (2) This state currently has one of the highest  
9 rates of infant mortality in the country, and the state  
10 desires to improve this rate.

11           (3) This state currently has one of the highest  
12 rates of premature births in the country.

13           (4) After release from the hospital, an infant born  
14 under 37 weeks of gestation often needs certain prescription  
15 drugs and services to survive a premature birth.

16           (5) Infants born at less than 37 weeks gestation  
17 have immature lungs and are at risk of severe morbidity and  
18 mortality throughout the first year of life.

19           (6) It is difficult for physicians, patients, and  
20 parents of premature populations to understand, track, and  
21 monitor the various drug prior authorization policies for the  
22 state Medicaid Agency and the various Medicaid managed care  
23 plans.

24           (7) Access to a drug therapy as prescribed by a  
25 physician may determine the outcome of whether or not a  
26 premature patient may be hospitalized.

1           (8) Hospital readmissions are in the national  
2 spotlight as policy makers at the highest levels recognize  
3 that costly readmissions, which are sometimes preventable,  
4 drive spending in health care programs. Furthermore, payment  
5 reform advocates are focusing on preventable hospital  
6 readmissions and quality to help control health care spending.

7           (9) Section 1927 of the Social Security Act, 42  
8 U.S.C. § 1396r-8, requires state Medicaid agencies to provide  
9 a response by telephone or other telecommunication device  
10 within 24 hours of a request for prior authorization of a  
11 covered outpatient drug.

12           Section 3. For the purposes of this act, the  
13 following terms shall have the following meanings:

14           (1) MEDICAID PROGRAM or PROGRAM. The medical  
15 assistance program as established in Title XIX of the Social  
16 Security Act and as administered in this state by the Alabama  
17 Medicaid Agency.

18           (2) PREMATURE INFANTS. Infants less than one year of  
19 age who were born at less than 37 weeks gestational age.

20           Section 4. (a) By July 1, 2012, the Medicaid Agency  
21 shall develop and implement policies and procedures to  
22 streamline the prior authorization process and ensure timely  
23 and appropriate access to covered outpatient drugs for  
24 premature infants covered by the Medicaid Program as provided  
25 by this act.

26           (b) In implementing this act, the Medicaid Agency  
27 shall do all of the following:

1           (1) Develop and implement a process for ensuring  
2 fast-track review and decisions of prior authorization  
3 requests. The Medicaid Agency shall respond to prior  
4 authorization requests with a decision no later than 24 hours  
5 from receipt. The response shall include a decision to approve  
6 or deny the prior authorization request, and if denied, the  
7 rationale for the decision and information about the appeals  
8 process. The following requirements shall be satisfied:

9           a. For covered outpatient drugs that are utilized on  
10 a seasonal or periodic basis, prior approval requests shall be  
11 completed within a 24-hour basis rather than withheld until  
12 prior to time of care.

13           b. Prior to denying a request, every effort shall be  
14 made to contact the provider to clarify questions that would  
15 result in the approval of the request.

16           c. Upon receipt of a prior authorization request,  
17 the Medicaid Agency shall transmit a "notice of receipt" of  
18 the prior authorization request to the provider. All prior  
19 authorization requests shall be time and date stamped upon  
20 receipt in order to monitor compliance with the 24-hour  
21 requirement.

22           d. Prior authorization requests that are not  
23 adjudicated within 24 hours from receipt of the request shall  
24 be deemed approved as submitted.

25           (2) Ensure prior authorizations can be submitted by  
26 the patient's treating physician or designee electronically,  
27 via facsimile, or via telephone.

1                   (3) Ensure transparency by posting all prior  
2 authorization requirements, forms, supporting materials,  
3 rationale, and appeals processes by therapeutic area or  
4 individual drug on the Medicaid Agency's publicly available  
5 website so that it is easy to access for physicians, parents,  
6 and caregivers.

7                   (4) Develop standards for the Medicaid Agency to  
8 implement an effective appeals process that allows for all of  
9 the following:

10                   a. Physicians, patients, or caregivers to appeal a  
11 decision by presenting evidence or testimony that the denied  
12 medical intervention is necessary for the patient's health.

13                   b. Allow patients to receive continued coverage  
14 pending the outcome of the appeals process.

15                   c. Allow patients or caregivers access to review  
16 their patient files.

17                   d. Provide for timely reviews and decision of  
18 appeals.

19                   e. Include the consumer protections set forth in the  
20 Uniform External Review Model Act promulgated by the National  
21 Association of Insurance Commissioners.

22                   (5) Ensure that all medicines that are prescribed to  
23 premature infants shall be given, at a minimum, in the dosage  
24 and duration as directed by the product's Prescribing  
25 Information provided by the Food and Drug Administration.

26                   (6) Monitor and track health outcomes, such as  
27 hospital readmissions, emergency visits, and outpatient

1 visits, for premature infants who are denied a covered  
2 prescription drug. The data shall be collected annually from  
3 all Medicaid programs and analyzed to identify any prior  
4 authorization policies that may be detrimentally impacting  
5 patient health or access to care. The Medicaid Agency shall  
6 annually report both data and findings to the Legislature.

7 (7) Develop standards and common practices  
8 applicable to all programs that ensure timely and appropriate  
9 access to care for premature infants.

10 (c) All policies, procedures, and requirements  
11 developed by the Medicaid Agency as required in subsection (b)  
12 are binding for all programs that serve Medicaid patients in  
13 this state.

14 Section 5. This act shall become effective  
15 immediately following its passage and approval by the  
16 Governor, or its otherwise becoming law.