RS 46:153.3

§153.3. Medical vendor reimbursements; allowable restrictions; peer-based prescribing and dispensing practice patterns; Medicaid Pharmaceutical and Therapeutics Committee

A. The Louisiana Legislature recognizes the need to ensure that the state delivers a medical assistance program which is cost effective and prudently administered. The legislature acknowledges that rising health care costs are creating an increased demand on the state's limited revenues. Further, the legislature finds that cost effective programs such as the medical assistance drug program optimize existing fiscal resources while improving the quality of patient care and reducing the need for more expensive health care services.

B.(1) The department may limit ingredient reimbursement for multi-source prescription drugs in accordance with state and federal law.

(2)(a) The department may establish a drug list that utilizes a prior approval process or any other process or combination of processes that prove to be cost-effective in the medical assistance program. At a minimum any prior approval process shall meet all of the following criteria:

(i) Provide for a response by telephone or other form of telecommunication device within a maximum of twenty-four hours of a request for prior authorization.

(ii) Provide for the dispensing of a minimum of a seventy-two hour supply of a covered outpatient prescription drug in an emergency situation as provided by federal rule or regulation.

(iii) Comply with federal laws, rules, and regulations.

(iv) Involve medical personnel, including but not limited to pharmacists and physicians.

(v) Assure that a qualified, licensed physician is available for consultation during the prior approval process.

(b) The department may enter into contractual arrangements to perform the prior approval function and the development of the preferred drug list with a Louisiana school of medicine, a Louisiana school of pharmacy, the fiscal intermediary for the Medicaid program, or such other qualified contractor that it deems appropriate. The department may, at the expiration of any current contractual obligation, enter into contractual arrangements through a public request for proposal process to perform the development of the preferred drug list.

(c) The department is authorized to promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Paragraph.

(d) Repealed by Acts 2016, No. 339, §2, eff. June 2, 2016.

(e) Each year the department shall provide a written and public report to the legislature and the governor thirty days prior to the regular legislative session. The report shall cover:

(i) The cost of administering the preferred drug list, including the cost of administering the prior authorization function, the costs of development and maintenance of the preferred drug list and aggregate funds, returned to the federal government related to pharmaceutical rebates.

(ii) An analysis of the utilization trends for medical services provided by the state and any correlation to the preferred drug list.

(3), (4) Repealed by Acts 2016, No. 339, §2, eff. June 2, 2016.

C.(1) The department shall not restrict by prior authorization any anti-retroviral prescription drug prescribed and determined by a prescribing practitioner licensed by the state to be medically necessary for the treatment and prevention of HIV/AIDS. Such anti-retroviral prescription drugs include but are not limited to protease inhibitors, non-nucleoside reverse transcriptase inhibitors, nucleoside reverse transcriptase inhibitors, anti-virals, and fusion inhibitors prescribed for the treatment of HIV/AIDS.

(2), (3) Repealed by Acts 2016, No. 339, §2, eff. June 2, 2016.

(4) The department shall include data from the atypical antipsychotic drug class and the immunomodulator and hepatitis C – specific antiviral drug class with the data collected on all drug classes reviewed on the Medicaid preferred drug list for the annual report to the legislature and governor as required by Subparagraph(B)(2)(e) of this Section.

D.(1) The Medicaid Pharmaceutical and Therapeutics Committee, hereinafter referred to as "the committee", is hereby created within the Louisiana Department of Health. The committee shall be composed

of fifteen members appointed by the governor and submitted to the Senate for confirmation. The governor shall ensure that appointments achieve race, gender, and geographic diversity.

(2)(a) Each nominating organization shall certify by affidavit that the practice of each nominee involves either the care of or the supervision of the care of Medicaid recipients. The committee shall be comprised of the following:

(i) One physician nominated by the Louisiana State University Health Sciences Center.

(ii) One physician nominated by Tulane University School of Medicine.

(iii) Four physicians nominated by the Louisiana State Board of Medical Examiners.

(iv) One pharmacist nominated by the University of Louisiana at Monroe School of Pharmacy.

(v) One pharmacist nominated by the Xavier University of Louisiana School of Pharmacy.

(vi) Two practicing pharmacists nominated by the Louisiana Board of Pharmacy. One pharmacist shall be an independent pharmacist and one pharmacist shall be a pharmacist representing a chain pharmacy.

(vii) The secretary of the Louisiana Department of Health, or his designee.

(viii) The director of the Medicaid program in the Louisiana Department of Health or his designee.

(ix) The president of the Senate or the president's designee.

(x) The speaker of the House of Representatives or the speaker's designee.

(xi) A consumer member who shall be a Medicaid recipient.

(b) Any committee member who misses two consecutive meetings may be replaced. The department may send notice to the nominating organization upon the second recorded absence. The nominating organization shall have thirty calendar days from issuance of the notice to submit replacement nominations to the office of the governor. If replacement nominations are not received within thirty days, the department shall nominate a replacement.

(3) Other physicians who participate in various subspecialties may act as consultants to the committee as needed.

(4) Members of the committee shall be governed by either the Code of Governmental Ethics, R.S. 42:1101 et seq. or the code of ethics governing their respective profession.

(5)(a) The committee shall meet only in public and shall permit public comment prior to voting on any changes in the preferred drug list. Minutes of the meeting shall be made available to the public within five days after the minutes are approved. All documents that are distributed to the committee and not subject to state or federal confidentiality laws shall be made available to the public within five days after the committee meets.

(b) The committee shall be responsible for developing and maintaining a preferred drug list established in conjunction with a prior approval process as provided in Subparagraph (B)(2)(a) of this Section. The preferred drug list shall comply with all applicable state and federal laws, rules, and regulations. The committee may recommend additions and deletions to the preferred drug list and the preferred drug list may change in accordance with those recommendations. The committee shall also advise the secretary of the department on policy recommendations related to the prudent administration of the Medicaid drug program. The secretary shall assure that all actions of the committee comply with applicable state and federal laws, rules, and regulations prior to implementation or modification of the preferred drug list. The clinical decisions regarding the preferred drug list shall be made transparent through a written report that is publicly available. If the decision of the Medicaid Pharmaceutical and Therapeutics Committee is contrary to the clinical evidence found in labeling, drug compendia, or peer review literature, such decisions shall be justified in writing.

(c) Any new drug approved by the United States Food and Drug Administration may be added to the preferred drug list when it becomes commercially available and the manufacturer enters into a federal medicaid drug rebate program if the department determines it is in the best interest of the medical assistance program. The Medicaid Pharmaceutical and Therapeutics Committee shall conduct an evidence-based analysis of the drug to determine if the drug shall be maintained on the preferred drug list. The analysis shall include but not be limited to the medical evidence of the clinical effectiveness of the drug as well as evidence of the cost-effectiveness of the drug in treating illness and disease. When a new drug that is included in the Medicaid Pharmaceutical and Therapeutics Committee process is approved by the United States Food and Drug Administration, the drug shall be reviewed at the next Medicaid Pharmaceutical and Therapeutics Committee meeting.

(d), (e) Repealed by Acts 2016, No. 339, §2, eff. June 2, 2016.

Acts 1989, No. 403, §1, eff. June 30, 1989; Acts 1995, No. 991, §1; Acts 1999, No. 795, §1; Acts 1999, No. 802, §7, eff. July 2, 1999; Acts 1999, No. 1245, §1; Acts 2001, No. 395, §1, eff. June 13, 2001; Acts 2001, No. 1137, §1; Acts 2003, No. 1264, §1; Acts 2004, No. 653, §1; Acts 2004, No. 677, §1; Acts 2004, No. 705, §1; Acts 2005, No. 177, §1, eff. June 28, 2005, and §2, eff. June 30, 2007; Acts 2006, No. 801, §1, eff. Jan. 1, 2007; Acts 2016, No. 339, §§1, 2, eff. June 2, 2016; Acts 2018, No. 644, §1.

*Acts 2006, No. 17.