

§ 108A-68.1A. Medicaid preferred drug program.

(a) The Department of Health and Human Services shall establish and implement a preferred drug list program under the Division of Health Benefits. Medications prescribed for the treatment of mental illness shall be included on the Preferred Drug List (PDL).

(b) The pharmaceutical and therapeutics committee of the Physician's Advisory Group (PAG) shall provide ongoing review of the preferred drug list, including the implementation of prior authorization on identified drugs. Members of the committee shall submit conflict of interest disclosure statements to the Department and shall have an ongoing duty to disclose conflicts of interest not included in the original disclosure.

(c) The Department, in consultation with the PAG, shall adopt and publish policies and procedures relating to the preferred drug list, including the following:

- (1) Guidelines for the presentation and review of drugs for inclusion on the preferred drug list.
- (2) The manner and frequency of audits of the preferred drug list for appropriateness of patient care and cost-effectiveness.
- (3) An appeals process for the resolution of disputes.
- (4) Such other policies and procedures as the Department deems necessary and appropriate.

(d) The Department and the pharmaceutical and therapeutics committee shall consider all therapeutic classes of prescription drugs for inclusion on the preferred drug list, except medications for treatment of human immunodeficiency virus or acquired immune deficiency syndrome shall not be subject to consideration for inclusion on the preferred drug list.

(e) The Department shall maintain an updated preferred drug list in electronic format and shall make the list available to the public on the Department's Internet Web site.

(f) The Department shall (i) enter into a multistate purchasing pool; (ii) negotiate directly with manufacturers or labelers; (iii) contract with a pharmacy benefit manager for negotiated discounts or rebates for all prescription drugs under the medical assistance program; or (iv) effectuate any combination of these options in order to achieve the lowest available price for such drugs under such program.

(g) The Department may negotiate supplemental rebates from manufacturers that are in addition to those required by Title XIX of the Social Security Act. The committee shall consider a product for inclusion on the preferred drug list if the manufacturer provides a supplemental rebate. The Department may procure a sole source contract with an outside entity or contractor to conduct negotiations for supplemental rebates.

(h) The Secretary shall establish a Preferred Drug List Policy Review Panel. The purpose of the Preferred Drug List Policy Review Panel is to review the Medicaid Preferred Drug List recommendations from the Department of Health and Human Services, Division of Health Benefits, and the Physician Advisory Group Pharmacy and Therapeutics Committee.

(i) The Secretary shall appoint the following individuals to the review panel: (i) the Director of Pharmacy for the Division of Health Benefits, (ii) a representative from the PAG P&T Committee, (iii) a representative from the Old North State Medical Society, (iv) a representative from the North Carolina Association of Pharmacists, (v) a representative from Community Care of North Carolina, (vi) a representative from the North Carolina Psychiatric Association, (vii) a representative from the North Carolina Pediatric Society, (viii) a representative from the North Carolina Academy of Family Physicians, (ix) a representative from the North Carolina Chapter of the American College of Physicians, (x) a representative from a research-based pharmaceutical company, (xi) a representative from a hospital-based pharmacy.

(j) Individuals appointed to the Review Panel, except for the Division's Director of Pharmacy, shall serve only a two-year term.

(k) After the Department, in consultation with the Physician Advisory Group Pharmacy and Therapeutics Committee, publishes a proposed policy or procedure related to the Medicaid Preferred Drug List, the Preferred Drug List Policy Review Panel shall hold an open meeting to review the recommended policy or procedure along with any written public comments received as a result of the posting. The Review Panel shall provide an opportunity for public comment at the meeting. After the conclusion of the meeting, the Review Panel shall submit policy recommendations about the proposed Medicaid Preferred Drug List policy or procedure to the Secretary. The Preferred Drug List Policy Review Panel shall meet no less than once a quarter. (2011-145, s. 10.31(d)(2)r.6; 2023-134, s. 9E.17(a), (c).)