

# PROPOSED REGULATION OF THE COMMISSIONER OF INSURANCE

## LCB File No. R074-14

April 29, 2014

EXPLANATION – Matter in *italics* is new; matter in brackets ~~fomitted material~~ is material to be omitted.

AUTHORITY: § 1-2: NRS 679B.130 and 689A.405; § 3-4: NRS 679B.130 and 689C.281; § 5-6: NRS 679B.130 and 695C.1703

A REGULATION relating to prescription drug formularies.

**Section 1.** NAC 689A is hereby amended by adding thereto the provisions set forth as section 2 of this regulation.

**Sec. 2.** *1. Except as provided in subsection 2, an insurer using a formulary pursuant to NRS 689A.405 may not:*

*(a) Remove any prescription drugs from the formulary once the formulary has been approved for use by the Commissioner; or*

*(b) If the formulary uses benefit tiers with differing copayment, coinsurance or deductible, move any prescription drugs between benefit tiers of the formulary once the formulary has been approved for use by the Commissioner.*

*2. An insurer may:*

*(a) Remove a prescription drug from the formulary at any time if:*

*(i) The prescription drug is not approved by the United States Food and Drug Administration; or*

*(ii) The United States Food and Drug Administration issues a notice, guidance, warning or other correspondence about the prescription drug which calls into question the clinical safety of the prescription drug. Before the prescription drug may be removed from the formulary the insurer shall submit to the Commissioner for approval a plan to alleviate the effect on consumers of removing the prescription drug from the formulary.*

*(b) Make benefit design changes to the formulary which will become effective for plans made available for purchase during the next annual open enrollment period.*

**Sec. 3.** NAC 689C is hereby amended by adding thereto the provisions set forth as section 4 of this regulation.

**Sec. 4.** *1. Except as provided in subsection 2, an insurer using a formulary pursuant to NRS 689C.281 may not:*

*(a) Remove any prescription drugs from the formulary once the formulary has been approved for use by the Commissioner; or*

*(b) If the formulary uses benefit tiers with differing copayment, coinsurance or deductible, move any prescription drugs between benefit tiers of the formulary once the formulary has been approved for use by the Commissioner.*

*2. An insurer may:*

*(a) Remove a prescription drug from the formulary at any time if:*

*(i) The prescription drug is not approved by the United States Food and Drug Administration; or*

*(ii) The United States Food and Drug Administration issues a notice, guidance, warning or other correspondence about the prescription drug which calls into question the clinical safety of the prescription drug. Before the prescription drug may be removed from the formulary the insurer shall submit to the Commissioner for approval a plan to alleviate the effect on consumers of removing the prescription drug from the formulary.*

*(b) Make benefit design changes to the formulary which will become effective for plans made available for purchase during the next annual open enrollment period.*

**Sec. 5.** NAC 695C is hereby amended by adding thereto the provisions set forth as section 6 of this regulation.

**Sec. 6.** *1. Except as provided in subsection 2, a health maintenance organization using a formulary pursuant to NRS 695C.1703 may not:*

*(a) Remove any prescription drugs from the formulary once the formulary has been approved for use by the Commissioner; or*

*(b) If the formulary uses benefit tiers with differing copayment, coinsurance or deductible, move any prescription drugs between benefit tiers of the formulary once the formulary has been approved for use by the Commissioner.*

*2. A health maintenance organization may:*

*(a) Remove a prescription drug from the formulary at any time if:*

*(i) The prescription drug is not approved by the United States Food and Drug Administration; or*

*(ii) The United States Food and Drug Administration issues a notice, guidance, warning or other correspondence about the prescription drug which calls into question the clinical safety of the prescription drug. Before the prescription drug may be removed from the formulary the health maintenance organization shall submit to the Commissioner for approval a plan to alleviate the effect on consumers of removing the prescription drug from the formulary.*

*(b) Make benefit design changes to the formulary which will become effective for plans made available for purchase during the next annual open enrollment period.*