



Expiration Date: Until Withdrawn

**DEPARTMENT OF MANAGED HEALTH CARE  
980 Ninth Street, Suite 500  
Sacramento, CA 95814**

**March 13, 2003**

**DEPARTMENT ADVICE NO. 03-02**

**TOPIC: Exclusion of Coverage for Certain Pharmaceuticals**

**Subject Matter:**

It has come to the attention of the Department of Managed Health Care that a health plan enrollee has encountered barriers to obtaining coverage for certain pharmaceuticals that may be in the same or similar class of medication as a drug that has recently been made available without a prescription.

**Action:**

Existing law requires health care service plans that provide an out-patient pharmacy benefit to provide all medically necessary outpatient prescription drugs (subject to those limitations, copayments or deductibles that have been approved by the Department). A health plan may properly exclude coverage for a specific drug that may be obtained without a prescription. However, pending the adoption of regulations pursuant to SB 842 Speier, (Chap. 791, Stats. 2002), no plan should exclude coverage of an entire class of prescription medications when one drug within that class becomes available over-the-counter.

This advice should not be interpreted as restricting any pharmaceutical benefit structures of health care service plans that have been previously approved by the Department, including, for example, copayments, tiering, and prior authorization.

**Further information:**

Authority: California Health and Safety Code §§ 1342.7 and 1367; California Code of Regulations, Title 28, §1300.67.4.

For further information, please contact Katie Nitz, Counsel, at the Office of Legal Services (916) 323-7078.