

1 **MEDICAID PREFERRED DRUG LIST AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

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5 **LONG TITLE**

6 **General Description:**

7 This bill authorizes the Department of Health to include additional drugs on the  
8 Medicaid program's preferred drug list.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ amends definitions;
- 12 ▶ authorizes the Department of Health to consider all psychotropic drugs for inclusion
- 13 on the Medicaid program's preferred drug list;
- 14 ▶ requires accountable care organizations that contract with Medicaid to pre-authorize
- 15 psychotropic drugs not on the preferred drug list under certain circumstances;
- 16 ▶ amends the length of the prior authorization to two years;
- 17 ▶ requires the department to report on savings resulting from the preferred drug list;
- 18 ▶ creates the Medicaid Preferred Drug List Restricted Account;
- 19 ▶ requires 40% of the savings attributable to this bill to be deposited into the account;
- 20 ▶ limits use of the account to appropriations to the Division of Substance Abuse and
- 21 Mental Health within the Department of Human Services; and
- 22 ▶ makes technical amendments.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **26-18-2.4**, as last amended by Laws of Utah 2012, Chapters 242 and 343

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31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **26-18-2.4** is amended to read:

33           **26-18-2.4. Medicaid drug program -- Preferred drug list.**

34           (1) A Medicaid drug program developed by the department under Subsection  
35 26-18-2.3(2)(f):

36           (a) shall, notwithstanding Subsection 26-18-2.3(1)(b), be based on clinical and  
37 cost-related factors which include medical necessity as determined by a provider in accordance  
38 with administrative rules established by the Drug Utilization Review Board;

39           (b) may include therapeutic categories of drugs that may be exempted from the drug  
40 program;

41           (c) may include placing some drugs, except ~~[the drugs described]~~ as provided in  
42 Subsection (2)(b), on a preferred drug list to the extent determined appropriate by the  
43 department;

44           (d) notwithstanding the requirements of Part 2, Drug Utilization Review Board, shall  
45 immediately implement ~~[the]~~ prior authorization requirements for a nonpreferred drug that is in  
46 the same therapeutic class as a drug that is:

47           (i) on the preferred drug list on the date that this act takes effect; or

48           (ii) added to the preferred drug list after this act takes effect; and

49           (e) except as prohibited by Subsections 58-17b-606(4) and (5), shall establish ~~[the]~~  
50 prior authorization requirements ~~[established]~~ under ~~[Subsections (1)(c) and (d) which shall]~~  
51 Subsection (1)(d) that:

52           (i) permit a health care provider or the health care provider's agent to obtain a prior  
53 authorization override of the preferred drug list through the department's pharmacy prior  
54 authorization review process~~[-, and which shall:]~~;

55           ~~[(i)]~~ (ii) provide either telephone or fax approval or denial of the request within 24  
56 hours of the receipt of a request that is submitted during normal business hours of Monday  
57 through Friday from 8 a.m. to 5 p.m.;

58           ~~[(ii)]~~ (iii) provide for the dispensing of a limited supply of a requested drug as  
59 determined appropriate by the department in an emergency situation, if the request for an  
60 override is received outside of the department's normal business hours; and

61           ~~[(iii)]~~ (iv) require the health care provider to provide the department with  
62 documentation of the medical need for the preferred drug list override in accordance with  
63 criteria established by the department in consultation with the department's Pharmacy and

64 Therapeutics Committee.

65 (2) (a) For purposes of this Subsection (2):

66 (i) "Immunosuppressive drug":

67 (A) means a drug that is used in immunosuppressive therapy to inhibit or prevent  
68 activity of the immune system to aid the body in preventing the rejection of transplanted organs  
69 and tissue; and

70 (B) does not include drugs used for the treatment of autoimmune disease or diseases  
71 that are most likely of autoimmune origin.

72 (ii) "Psychotropic drug" means the following classes of drugs: ~~[atypical anti-psychotic]~~  
73 anti-psychotics, anti-depressants, anti-convulsant/mood ~~[stabilizer]~~ stabilizers, anti-anxiety  
74 drugs, attention deficit hyperactivity disorder stimulants, or sedative/hypnotics.

75 (iii) "Stabilized" means a health care provider has documented in the patient's medical  
76 chart that a patient has achieved a stable ~~[or steadfast]~~ medical state ~~[within the past 90 days~~  
77 ~~using]~~ by use of a particular psychotropic drug.

78 (b) A preferred drug list developed under the provisions of this section may not  
79 include~~[(i) except as provided in Subsection (2)(e), a psychotropic or anti-psychotic drug; or~~  
80 ~~(ii)]~~ an immunosuppressive drug.

81 (c) The ~~[state]~~ Medicaid program shall reimburse for a prescription for an  
82 immunosuppressive drug as written by ~~[the]~~ a health care provider for a patient who has  
83 undergone an organ transplant. For purposes of Subsection 58-17b-606(4), and with respect to  
84 patients who have undergone an organ transplant, the prescription for a particular  
85 immunosuppressive drug as written by ~~[a]~~ the health care provider meets the criteria of  
86 demonstrating to the ~~[Department of Health]~~ department a medical necessity for dispensing the  
87 prescribed immunosuppressive drug.

88 (d) Notwithstanding the requirements of Part 2, Drug Utilization Review Board, the  
89 ~~[state]~~ Medicaid drug program may not require the use of step therapy for immunosuppressive  
90 drugs without the written or oral consent of the health care provider and the patient.

91 ~~[(e) The department may include a sedative hypnotic on a preferred drug list in~~  
92 ~~accordance with Subsection (2)(f):]~~

93 ~~[(f)]~~ (e) The department shall grant a prior authorization for a ~~[sedative hypnotic]~~  
94 psychotropic drug that is not on the preferred drug list ~~[under Subsection (2)(e);]~~ if the health

95 care provider has documentation [~~related to~~] showing at least one of the following [conditions]  
96 for the Medicaid client:

97 (i) a trial and failure of at least one preferred agent in the drug class, including the  
98 name of the preferred drug that was tried, the length of therapy, and the reason for the  
99 discontinuation;

100 (ii) detailed evidence of a potential drug interaction between current medication and  
101 the preferred drug;

102 (iii) detailed evidence of a condition or contraindication that prevents the use of the  
103 preferred drug;

104 (iv) objective clinical evidence that a patient is at high risk of adverse events due to a  
105 therapeutic interchange with a preferred drug;

106 (v) the patient is a new or previous Medicaid client with an existing diagnosis  
107 previously stabilized with a nonpreferred drug; or

108 (vi) other valid reasons as determined by the department.

109 [~~(g)~~] (f) A prior authorization granted under Subsection (2)[~~(f)~~](e) is valid for [~~one~~  
110 year] two years from the date the department grants the prior authorization and shall be  
111 renewed in accordance with Subsection (2)[~~(f)~~](e).

112 (g) Accountable Care organizations that contract with the state Medicaid program shall  
113 grant prior authorization for a psychotropic drug that is not on the preferred drug list  
114 established by the department, if the health care provider has documentation showing at least  
115 one of the conditions listed in Subsection (2)(e)(i) through (vi) for the Medicaid client.

116 (3) The department shall report to the Health and Human Services Interim Committee  
117 and to the Social Services Appropriations Subcommittee prior to November 1, [~~2013~~] 2017,  
118 regarding the savings to the Medicaid program resulting from the use of [~~the~~] a preferred drug  
119 list [~~permitted by~~] developed under Subsection (1).

120 (4) (a) There is created a restricted account within the General Fund called the  
121 "Medicaid Preferred Drug List Restricted Account."

122 (b) The account consists of savings to the Medicaid program attributable to the  
123 enactment of this bill.

124 (c) Savings to the Medicaid program shall be calculated for each fiscal year by the  
125 department.

126           (d) For each fiscal year, the Legislature shall appropriate to the account an amount  
127 equal to 40% of the savings calculated for the immediately preceding fiscal year, except that  
128 appropriations shall be reduced as necessary to ensure that the account's balance does not  
129 exceed \$2,000,000.

130           (e) Funds from the account may be used only for appropriations by the Legislature to  
131 the Division of Substance Abuse and Mental Health within the Department of Human Services.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**