

1 **MEDICAID DRUG UTILIZATION**

2 **AMENDMENTS**

3 2008 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Rebecca D. Lockhart**

6 Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

8 **General Description:**

9 This bill amends the Medical Assistance Act.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ prohibits the inclusion of immunosuppressive drugs used to prevent transplanted  
13 organ rejection from inclusion on:

- 14 • the preferred drug list for the State Medicaid Program;
- 15 • step therapy requirements of the Drug Utilization Board; and
- 16 • generic substitution requirements of the State Medicaid Program.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **26-18-2.4**, as last amended by Laws of Utah 2007, Chapter 385

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

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



28           **26-18-2.4. Medicaid drug program.**

29           (1) A Medicaid drug program developed by the department under Subsection 26-18-2.3

30 (2)(f):

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

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

36           (c) may include placing some drugs, except [~~psychotropic or anti-psychotic drugs~~] the  
37 drugs described in Subsection (3), on a preferred drug list to the extent determined appropriate  
38 by the department; and

39           (d) (i) except as prohibited by Subsections 58-17b-606(4) and (5), shall permit a health  
40 care provider with prescriptive authority to override the restrictions of a preferred drug list  
41 provided that the medical necessity for the override is documented in the patient's medical file  
42 and by handwriting on the prescription "medically necessary - dispense as written"; and

43           (ii) shall not permit a health care provider with prescriptive authority to override the  
44 restrictions of a preferred drug list with any preprinted instructions for dispense as written, or  
45 no substitutions allowed.

46           (2) If the department implements a drug program under the provisions of Subsection  
47 (1)(c), the department shall:

48           (a) determine the percentage of prescriptions that are paid for by the department which  
49 are overrides to the preferred drug list under Subsection (1)(d)(i);

50           (b) include the information required by Subsection (2)(a) in the report required by  
51 Subsection (2)(c); and

52           (c) report its findings regarding the drug program to the Legislative Health and Human  
53 Services Interim Committee by August 30, 2008, and to the Legislative Health and Human  
54 Services Appropriations Subcommittee during the 2009 General Session.

55           (3) (a) For purposes of this Subsection (3), "immunosuppressive drug":

56           (i) means a drug that is used in immunosuppressive therapy to inhibit or prevent  
57 activity of the immune system to aid the body in preventing the rejection of transplanted organs  
58 and tissue; and

59 (ii) does not include drugs used for the treatment of autoimmune disease or diseases  
 60 that are most likely of autoimmune origin.

61 (b) A preferred drug list developed under the provisions of this section may not  
 62 include:

63 (i) a psychotropic or anti-psychotic drug; or

64 (ii) an immunosuppressive drug.

65 (c) ~~H~~→ [Notwithstanding the provisions of Subsection 58-17b-606(4), the state Medicaid  
 66 drug program may not require the substitution of a generic equivalent for an  
 67 immunosuppressive drug without written or oral consent from the health care provider and the  
 68 patient ] The state Medicaid program shall reimburse for a prescription for an  
 68a immunosuppressive drug as written by the health care provider for a patient who has  
 68b undergone an organ transplant. For purposes of Subsection 58-17b-606(4), and with respect to  
 68c patients who have undergone an organ transplant, the prescription for a particular  
 68d immunosuppressive drug as written by a health care provider meets the criteria of  
 68e demonstrating to the Department of Health a medical necessity for dispensing the prescribed  
 68f immunosuppressive drug ←H .

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

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Legislative Review Note  
 as of 12-18-07 7:00 AM

Office of Legislative Research and General Counsel

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**H.B. 258 - Medicaid Drug Utilization Amendments - As Amended**

**Fiscal Note**

2008 General Session  
State of Utah

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**State Impact**

Enactment of this legislation will require an appropriation of \$23,000 from the General Fund and \$56,000 in Federal Funds for FY 2009. In FY 2010, the costs of this legislation will be \$25,300 from the General Fund and \$61,900 in Federal Funds.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	\$25,300	\$25,300	\$0	\$0	\$0
General Fund, One-Time	\$0	(\$2,300)	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$56,000	\$61,900	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$79,000</b>	<b>\$87,200</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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**Individual, Business and/or Local Impact**

The increased costs to the state and the amounts currently paid for generic immunosuppressive drugs affected by this legislation would now be paid to brand name manufacturers instead of generic drug manufacturers.

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or local governments.