Pain Medication Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor:

LONG TITLE

General Description:

This bill amends provisions related to pain medications.

Highlighted Provisions:

This bill:

- defines terms;
- limits how the Department of Health and Human Services may treat nonopioid drugs for purposes of the preferred drug list and other utilization management practices;
- amends provisions related to an opiate abuse prevention pamphlet;
- limits how a health benefit plan may treat nonopioid drugs for purposes of drug formularies and other utilization management practices; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-3-105, as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-4-514, as renumbered and amended by Laws of Utah 2023, Chapter 307

31A-22-661, as enacted by Laws of Utah 2024, Chapter 262

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

Section 1. Section **26B-3-105** is amended to read:

26B-3-105 . Medicaid drug program -- Preferred drug list.

(1) As used in this section:

(a) "Immunosuppressive drug" means a drug that:

(i) is used in immunosuppressive therapy to inhibit or prevent activity of the immune

system to aid the body in preventing the rejection of transplanted organs and tissue; and

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

(b) "Nonopioid drug" means a drug or biological product that:

(i) is indicated to produce analgesia without acting on the body's opioid receptors; and

(ii) has been approved by the United States Food and Drug Administration.

(c) "Prescription drug utilization management" means a set of formal techniques used by the Medicaid program that are designed to monitor the use of or evaluate the medical necessity, appropriateness, efficacy, or efficiency of prescription drugs.

(d) "Prior authorization" means a requirement by the Medicaid program that an enrollee obtain authorization for a covered drug, covered device, or covered service before receiving the drug, device, or service.

(e) "Stabilized" means a health care provider has documented in the patient's medical chart that a patient has achieved a stable or steadfast medical state within the past 90 days.

(f) "Step therapy protocol" means a protocol or program that establishes the specific sequence in which prescription drugs for a specified medical condition will be covered by the Medicaid program.

(2) A Medicaid drug program developed by the department under Subsection 26B-3-104(2)(f):

(a) shall, notwithstanding Subsection 26B-3-104(1)(b), be based on clinical and cost-related factors which include medical necessity as determined by a provider in accordance with administrative rules established by the Drug Utilization Review Board;

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

(c) may include placing some drugs[~~, except the drugs described in Subsection (2),~~] on a preferred drug list:

(i) to the extent determined appropriate by the department; and

(ii) in the manner described in Subsection [~~(3)~~] (4) for psychotropic drugs;

(d) notwithstanding the requirements of Sections 26B-3-302 through 26B-3-309 regarding the Drug Utilization Review Board, and except as provided in Subsection [~~(3)~~] (4), shall immediately implement the prior authorization requirements for a

nonpreferred drug that is in the same therapeutic class as a drug that is:

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

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

(e) except as prohibited by Subsections 58-17b-606(4) and (5), shall establish the prior authorization requirements [~~established under Subsections (1)(c) and (d) ~~]which shall permit a health care provider or the health care provider's agent to obtain a prior authorization override of the preferred drug list through the department's pharmacy prior authorization review process, and which shall:

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

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

(iii) require the health care provider to provide the department with documentation of the medical need for the preferred drug list override in accordance with criteria established by the department in consultation with the Pharmacy and Therapeutics Committee.

[~~(2)~~] (3)[~~(a) As used in this Subsection (2):~~]

[~~(i) "Immunosuppressive drug":~~]

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

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

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

[~~(b)~~] (a) A preferred drug list developed under the provisions of this section may not include an immunosuppressive drug.

[~~(c)~~] (b)[~~(i)~~] The state Medicaid program shall reimburse for a prescription for an immunosuppressive drug as written by the health care provider for a patient who has undergone an organ transplant.

[~~(ii)~~] (c) For purposes of Subsection 58-17b-606(4), and with respect to patients who

have undergone an organ transplant, the prescription for a particular immunosuppressive drug as written by a health care provider meets the criteria of demonstrating to the department a medical necessity for dispensing the prescribed immunosuppressive drug.

(d) Notwithstanding the requirements of Sections 26B-3-302 through 26B-3-309 regarding the Drug Utilization Review Board, the state Medicaid drug program may not require the use of a step therapy protocol for immunosuppressive drugs without the written or oral consent of the health care provider and the patient.

(e) The department may include a sedative hypnotic on a preferred drug list in accordance with Subsection [~~(2)(f)~~] (3)(f).

(f) The department shall grant a prior authorization for a sedative hypnotic that is not on the preferred drug list under Subsection [~~(2)(e)~~] (3)(e), if the health care provider has documentation related to one of the following conditions for the Medicaid client:

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

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

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

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

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

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

(g) A prior authorization granted under Subsection [~~(2)(f)~~] (3)(f) is valid for one year from the date the department grants the prior authorization and shall be renewed in accordance with Subsection [~~(2)(f)~~] (3)(f).

[~~(3)~~] (4)(a) As used in this Subsection [~~(3)~~] (4), "psychotropic drug" means the following classes of drugs:

(i) atypical anti-psychotic;

(ii) anti-depressant;

(iii) anti-convulsant/mood stabilizer;

(iv) anti-anxiety; and

(v) attention deficit hyperactivity disorder stimulant.

(b)(i) The department shall develop a preferred drug list for psychotropic drugs.

(ii) [~~Except as provided in Subsection (3)(d), a~~] A preferred drug list for psychotropic drugs developed under this section shall allow a health care provider to override the preferred drug list by writing "dispense as written" on the prescription for the psychotropic drug.

(iii) A health care provider may not override Section 58-17b-606 by writing "dispense as written" on a prescription.

(c) The department, and a Medicaid accountable care organization that is responsible for providing behavioral health, shall[~~:~~]

[~~(i)~~] establish a system to:

[~~(A)~~] (i) track health care provider prescribing patterns for psychotropic drugs;

[~~(B)~~] (ii) educate health care providers who are not complying with the preferred drug list; and

[~~(C)~~] (iii) implement peer to peer education for health care providers whose prescribing practices continue to not comply with the preferred drug list[~~; and~~] .

[~~(ii) determine whether health care provider compliance with the preferred drug list is at least:~~]

[~~(A) 55% of prescriptions by July 1, 2017;~~]

[~~(B) 65% of prescriptions by July 1, 2018; and~~]

[~~(C) 75% of prescriptions by July 1, 2019.~~]

[~~(d) Beginning October 1, 2019, the department shall eliminate the dispense as written override for the preferred drug list, and shall implement a prior authorization system for psychotropic drugs, in accordance with Subsection (2)(f), if by July 1, 2019, the department has not realized annual savings from implementing the preferred drug list for psychotropic drugs of at least $750,000 General Fund savings.~~]

(5) The department may not:

(a) designate a nonopioid drug as a nonpreferred drug if any opioid or narcotic drug is designated as a preferred drug; or

(b) establish more restrictive or extensive prescription drug utilization management practices for a nonopioid drug than the least restrictive or extensive practice applicable to any opioid or narcotic drug, including a prior authorization requirement or a step therapy protocol.

Section 2. Section **26B-4-514** is amended to read:

26B-4-514 . Opiate abuse prevention pamphlet.

(1) As funding is available, the department shall produce and distribute, in conjunction with the Office of Substance Use and Mental Health, a pamphlet about opiates that includes information regarding:

(a) the risk of dependency and addiction;

(b) methods for proper storage and disposal;

(c) alternative options for pain management[;] including information on:

(i) nonopiate medicinal drugs, other drug products, and nonpharmacological therapies; and

(ii) the advantages and disadvantages to the use of nonopiate alternatives;

(d) the benefits of and ways to obtain naloxone; and

(e) resources if the patient believes that the patient has a substance use disorder.

(2) The pamphlet described in Subsection (1) shall be:

(a) evaluated periodically for effectiveness at conveying necessary information and revised accordingly;

(b) written in simple and understandable language; and

(c) available in English and other languages that the department determines to be appropriate and necessary.

Section 3. Section **31A-22-661** is amended to read:

31A-22-661 . Health benefit plan procedures related to prescription drugs.

(1) As used in this section[~~, "long-term~~] :

(a) "Long-term drug" means an enrollee's prescription drug where the prescription has been active for at least 180 days with the health benefit plan.

(b) "Nonopioid drug" means a drug or biological product that:

(i) is indicated to produce analgesia without acting on the body's opioid receptors; and

(ii) has been approved by the United States Food and Drug Administration.

(c) "Preauthorization requirement" means the same as that term is defined in Section 31A-22-650.

(d) "Prescription drug utilization management" means a set of formal techniques used by a health benefit plan that are designed to monitor the use of or evaluate the medical necessity, appropriateness, efficacy, or efficiency of prescription drugs.

(e) "Step therapy protocol" means a protocol or program that establishes the specific sequence in which prescription drugs for a specified medical condition will be covered by a health benefit plan.

(2)(a) Except as provided in Subsection (2)(b), before a health benefit plan requires an enrollee to change from a prescribed long-term drug to another drug, the health benefit plan shall:

(i) at least 30 days before the day on which the health benefit plan will require the enrollee to change from the long-term drug to another drug, provide notice that the health benefit plan will require the individual to change to another drug; and

(ii) provide a justification for the change upon request.

(b) Subsection (2)(a) does not apply if:

(i) the change requires the individual to try a generic or a biosimilar of the long-term drug; or

(ii) the long-term drug is not on the health benefit plan's formulary.

[~~(3)~~] (c) A health benefit plan shall provide an enrollee a justification as to why an enrollee must try a certain drug before a health benefit plan will cover a different prescribed drug.

[~~(4)~~] (d) This [~~section~~] Subsection (2) does not apply to a drug that is provided under the health benefit plan's medical benefit.

(3) Beginning January 1, 2026, a health benefit plan may not:

(a) designate a nonopioid drug as a nonpreferred drug if any opioid or narcotic drug is designated as a preferred drug; or

(b) establish more restrictive or extensive prescription drug utilization management practices for a nonopioid drug than the least restrictive or extensive practice applicable to any opioid or narcotic drug, including preauthorization or a step therapy protocol.

Section 4. **Effective Date.**

This bill takes effect on May 7, 2025.