

**Senator Allen M. Christensen** proposes the following substitute bill:

**MEDICAID AMENDMENTS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Allen M. Christensen**

House Sponsor: James A. Dunnigan

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**LONG TITLE**

**General Description:**

This bill amends the Medicaid drug program.

**Highlighted Provisions:**

This bill:

▶ amends the Medicaid drug program to remove restrictions on the preferred drug list program; and

▶ requires a report from the Department of Health regarding cost savings to the Medicaid drug program from the use of a preferred drug list.

**Money Appropriated in this Bill:**

This bill appropriates:

▶ as an ongoing appropriation subject to future budget constraints for fiscal year 2011-12:

• \$200,000 from the General Fund to the Department of Health - Medicaid Optional Services subject to intent language to be spent to restore emergency dental services; and

• \$615,000 from the General Fund to the Department of Human Services - Mental Health Services.

**Other Special Clauses:**



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **26-18-2.4**, as last amended by Laws of Utah 2009, Chapter 324



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 26-18-2.3  
35 (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 in Subsection (2);~~] on  
42 a preferred drug list to the extent determined appropriate by the department;

43 (d) notwithstanding the requirements of Part 2, Drug Utilization Review Board, shall  
44 immediately implement the prior authorization requirements for a non-preferred drug that is in  
45 the same therapeutic class as a drug that is:

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

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

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

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

55 (ii) provide for the dispensing of a limited supply of a requested drug as determined  
56 appropriate by the department in an emergency situation, if the request for an override is

57 received outside of the department's normal business hours; and

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

61 ~~[(2) (a) For purposes of this Subsection (2), "immunosuppressive drug":]~~

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

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

67 ~~[(b) A preferred drug list developed under the provisions of this section may not  
68 include: (i) a psychotropic or anti-psychotic drug; or (ii) an immunosuppressive drug.]~~

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

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

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

79 (i) "psychotropic drug" means the following classes of drugs: atypical anti-psychotic,  
80 anti-depressants, anti-convulsant/mood stabilizer, anti-anxiety, Attention Deficit Hyperactivity  
81 Disorder stimulants, or sedative/hypnotics; and

82 (ii) "stabilized" means a health care provider has documented in the patient's medical  
83 chart that a patient has achieved a stable or steadfast medical state within the past 180 days  
84 using a particular psychotropic drug.

85 (b) The department shall grant a prior authorization for a psychotropic drug that is not  
86 on the preferred drug list for a patient who is stabilized on the drug. A prior authorization  
87 granted under this subsection is valid for one year from the date the department grants the prior

88 authorization.

89 (3) The department shall report to the Health and Human Services Interim Committee  
90 and to the Health and Human Services Appropriations Subcommittee prior to November 1,  
91 [~~2010~~] 2013, regarding the savings to the Medicaid program resulting from the use of the  
92 preferred drug list permitted by Subsection (1).

93 Section 2. **Appropriation.**

94 (1) Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act,  
95 the following sums of money are appropriated from resources not otherwise appropriated out of  
96 the funds or accounts indicated for the fiscal year beginning July 1, 2011 and ending June 30,  
97 2012. These are additions to amounts previously appropriated for fiscal year 2012.

98 Item 1 To Department of Human Services - Division of Substance Abuse and Mental Health

99 From General Fund \$615,000

100 Schedule of Programs:

101 Mental Health Centers \$615,000

102 Item 2 To Department of Health - Medicaid Optional Services

103 From General Fund \$200,000

104 Schedule of Programs:

105 Dental Services \$200,000

106 (2) The Legislature intends that the money appropriated for dental services in this bill  
107 be used to restore emergency dental services.

# FISCAL NOTE

S.B. 137 1st Sub. (Green)

SHORT TITLE: Medicaid Amendments

SPONSOR: Christensen, A.

2011 GENERAL SESSION, STATE OF UTAH

## STATE GOVERNMENT (UCA 36-12-13(2)(b))

This bill saves the Department of Health \$1,046,400 ongoing General Fund beginning in FY 2012, offset by one-time General Fund of \$941,100 in FY 2012 and \$6,300 in FY 2013 as well as saving \$258,200 federal funds in FY 2012 and \$2,550,200 federal funds in FY 2013 from less drug expenses in Medicaid. This bill also provides ongoing appropriations beginning in FY 2012 of \$200,000 to the Department of Health for emergency dental services and \$615,000 to the Department of Human Services for mental health services. The \$200,000 for the Department of Health will be matched to annually draw down \$490,100 in federal funds beginning in FY 2012.

## STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue	\$0	\$0	\$0
Expenditure:			
General Fund	\$0	\$815,000	\$815,000
General Fund	\$0	(\$1,046,400)	(\$1,046,400)
General Fund, One-Time	\$0	\$941,100	\$6,300
Federal Funds	\$0	(\$258,200)	(\$2,550,200)
Federal Funds	\$0	\$490,100	\$490,100
Total Expenditure	\$0	\$941,600	(\$2,285,200)
Net Impact, All Funds (Rev.-Exp.)	\$0	(\$941,600)	\$2,285,200
Net Impact, General/Education Funds	\$0	(\$709,700)	\$225,100

## LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

This bill appropriates \$615,000 ongoing General Fund for 13 local mental health authorities which can use these funds to draw down federal funds.

## DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

The bill appropriates \$690,100 for about 25,000 new emergency dental services for Medicaid clients provided by businesses. The savings listed above for less drug expenses in Medicaid come through lower drug reimbursements to pharmacies.