

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

**MEDICAID COST CONTROL AMENDMENTS**

2012 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 to allow a pilot program preferred drug list for one type of mental health drug.

**Highlighted Provisions:**

This bill:

- ▶ amends the Medicaid drug program to implement a limited pilot program to test a preferred drug list program for one type of psychotropic drug; and
- ▶ requires the department to authorize a nonpreferred drug under certain circumstances.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

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

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



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

27 **26-18-2.4. Medicaid drug program -- Preferred drug list.**

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

29 (2)(f):

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

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

35 (c) may include placing some drugs, except the drugs described in Subsection (2), on a  
36 preferred drug list to the extent determined appropriate by the department;

37 (d) notwithstanding the requirements of Part 2, Drug Utilization Review Board, shall  
38 immediately implement the prior authorization requirements for a nonpreferred drug that is in  
39 the same therapeutic class as a drug that is:

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

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

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

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

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

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

56 (2) (a) For purposes of this Subsection (2)[;]:

57 (i) "Immunosuppressive drug":

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

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

63 (ii) "Psychotropic drug" means the following classes of drugs: atypical anti-psychotic,  
64 anti-depressants, anti-convulsant/mood stabilizer, anti-anxiety, Attention Deficit Hyperactivity  
65 Disorder stimulants, or sedative/hypnotics.

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

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

71 (i) except as provided in Subsection (2)(e), a psychotropic or anti-psychotic drug; or

72 (ii) an immunosuppressive drug.

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

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

82 (e) ~~§~~ → [(†)] ← ~~§~~ The department may include a sedative hypnotic on a preferred drug list in  
83 accordance with Subsection (2)(f).

84 ~~§~~ → [(ii)] ← ~~§~~ The department may study and develop, but not implement, a preferred drug list for  
85 other psychotropic or anti-psychotic drugs. If the department studies a preferred drug list under  
86 this Subsection (2)(e)(ii), the department shall report to the Legislature in accordance with  
87 Subsection (3). ← ~~§~~

88           (f) The department shall grant a prior authorization for a ~~ψ~~→ [psychotropic drug] sedative  
88a hypnotic ←~~ψ~~ that is not  
89 on the preferred drug list under Subsection (2)(e), if the health care provider has documentation  
90 related to one of the following conditions for the Medicaid client:  
91           (i) a trial and failure of at least one preferred agent in the drug class, including the  
92 name of the preferred drug that was tried, the length of therapy, and the reason for the  
93 discontinuation;  
94           (ii) detailed evidence of a potential drug interaction between current medication and  
95 the preferred drug;  
96           (iii) detailed evidence of a condition or contraindication that prevents the use of the  
97 preferred drug;  
98           (iv) objective clinical evidence that a patient is at high risk of adverse events due to a  
99 therapeutic interchange with a preferred drug;  
100           (v) the patient is a new or previous Medicaid client with an existing diagnosis  
101 previously stabilized with a nonpreferred drug; or  
102           (vi) other valid reasons as determined by the department.  
103           (g) A prior authorization granted under Subsection (2)(f) is valid for one year from the  
104 date the department grants the prior authorization and shall be renewed in accordance with  
105 Subsection (2)(f).  
106           (3) The department shall report to the Health and Human Services Interim Committee  
107 and to the Health and Human Services Appropriations Subcommittee prior to November 1,  
108 [~~2010~~] 2013, regarding the savings to the Medicaid program resulting from the use of the  
109 preferred drug list permitted by Subsection (1).