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**MEDICAID COST CONTROL AMENDMENTS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Allen M. Christensen**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends the Medicaid drug program and establishes a restricted account for Medicaid drug cost savings.

**Highlighted Provisions:**

This bill:

- ▶ amends the Medicaid drug program to remove restrictions on the preferred drug list program for psychotropic drugs;
- ▶ requires the department to authorize a nonpreferred psychotropic drug under certain circumstances;
- ▶ establishes a restricted account for the cost savings from the preferred drug list for psychotropic drugs; 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 in fiscal year 2012-13:

- ▶ to the Department of Human Services, Division of Substance Abuse and Mental Health, as an ongoing appropriation:
  - from the Medicaid Cost Control -- Psychotropic Drugs Restricted Account, \$750,000, subject to intent language that the appropriation is non-lapsing and shall be used to fund mental health centers.



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **26-18-2.4**, as last amended by Laws of Utah 2009, Chapter 324

33 ENACTS:

34 **26-18-2.7**, Utah Code Annotated 1953



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

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

38 **26-18-2.4. Medicaid drug program -- Preferred drug list.**

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

40 (2)(f):

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

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

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

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

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

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

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

58 (i) provide either telephone or fax approval or denial of the request within 24 hours of

59 the receipt of a request that is submitted during normal business hours of Monday through  
60 Friday from 8 a.m. to 5 p.m.;

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

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

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

68 (i) "Immunosuppressive drug":

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

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

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

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

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

82 (c) The state Medicaid program shall reimburse for a prescription for an  
83 immunosuppressive drug as written by the health care provider for a patient who has undergone  
84 an organ transplant. For purposes of Subsection 58-17b-606(4), and with respect to patients  
85 who have undergone an organ transplant, the prescription for a particular immunosuppressive  
86 drug as written by a health care provider meets the criteria of demonstrating to the Department  
87 of Health a medical necessity for dispensing the 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 shall grant a prior authorization for a psychotropic drug that is not  
92 on the preferred drug list if the health care provider has documentation related to one of the  
93 following conditions for the Medicaid client:

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

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

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

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

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

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

106 (f) A prior authorization granted under Subsection (2)(e) is valid for one year from the  
107 date the department grants the prior authorization and shall be renewed in accordance with  
108 Subsection (2)(e).

109 (3) The department shall report to the Health and Human Services Interim Committee  
110 and to the Health and Human Services Appropriations Subcommittee prior to November 1,  
111 [~~2010~~] 2013, regarding the savings to the Medicaid program resulting from the use of the  
112 preferred drug list permitted by Subsection (1).

113 Section 2. Section **26-18-2.7** is enacted to read:

114 **Part 2. Restricted Account**

115 **26-18-2.7. Medicaid Cost Control -- Psychotropic Drugs Restricted Account.**

116 (1) There is created a restricted account within the General Fund known as the  
117 "Medicaid Cost Control -- Psychotropic Drugs Restricted Account."

118 (2) Any money the Medicaid program saves as a result of psychotropic drugs being  
119 added to the preferred drug list, up to \$750,000, shall be deposited by the Medicaid program  
120 into the restricted account.

121 (3) As funds are available in the restricted account, up to \$750,000 shall be  
122 appropriated to the Department of Human Services, Division of Substance Abuse and Mental  
123 Health, for mental health centers.

124 Section 3. **Appropriation.**

125 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the  
126 following sums of money are appropriated from resources not otherwise appropriated, or  
127 reduced from amounts previously appropriated, out of the funds or accounts indicated for the  
128 fiscal year beginning July 1, 2012 and ending June 30, 2013. These are additions to any  
129 amounts previously appropriated for fiscal year 2013.

130 To Department of Human Services - Division of Substance Abuse and Mental Health

131 From Medicaid Cost Control -- Psychotropic Drugs Restricted Account \$750,000

132 Schedule of Programs:

133 Mental Health Centers \$750,000

134 The Legislature intends that, under Section 63J-1-603 of the Utah Code, appropriations  
135 under this section not lapse at the close of fiscal year 2013 and shall be used by the Division of  
136 Substance Abuse and Mental Health to fund mental health centers.

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**Legislative Review Note**  
as of 2-7-12 11:20 AM

**Office of Legislative Research and General Counsel**