

Representative Raymond P. Ward proposes the following substitute bill:

MEDICAID PREFERRED DRUG LIST AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Raymond P. Ward

Senate Sponsor: Allen M. Christensen

LONG TITLE

General Description:

This bill authorizes the Department of Health to include additional drugs on the Medicaid program's preferred drug list.

Highlighted Provisions:

This bill:

- ▶ authorizes the Department of Health to include all psychotropic and anti-psychotic drugs on the Medicaid program's preferred drug list;
- ▶ amends prior authorization provisions for the preferred drug list to address psychotropic and anti-psychotic drugs;
- ▶ requires the department to report on savings resulting from the preferred drug list;
- ▶ creates the Medicaid Preferred Drug List Restricted Account;
- ▶ requires savings attributable to this bill to be deposited into the account; and
- ▶ limits use of the account to appropriations to the Division of Substance Abuse and Mental Health within the Department of Human Services.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **26-18-2.4**, as last amended by Laws of Utah 2012, Chapters 242 and 343

29

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

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

32 **26-18-2.4. Medicaid drug program -- Preferred drug list.**

33 (1) A Medicaid drug program developed by the department under Subsection

34 **26-18-2.3(2)(f)**:

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

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

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

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

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

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

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

62 (i) "Immunosuppressive drug":

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

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

68 (ii) "Psychotropic drug" means the following classes of drugs: atypical anti-psychotic,
69 anti-depressants, anti-convulsant/mood stabilizer, anti-anxiety, attention deficit hyperactivity
70 disorder stimulants, or sedative/hypnotics.

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

74 (b) A preferred drug list developed under the provisions of this section may not
75 include~~[-(i) except as provided in Subsection (2)(e), a psychotropic or anti-psychotic drug, or~~
76 ~~(ii)]~~ an immunosuppressive drug.

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

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

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

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

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

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

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

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

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

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

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

107 (3) The department shall report to the Health and Human Services Interim Committee
108 and to the Social Services Appropriations Subcommittee prior to November 1, ~~[2013]~~ 2016,
109 regarding the savings to the Medicaid program resulting from the use of the preferred drug list
110 permitted by Subsection (1).

111 (4) (a) There is created a restricted account within the General Fund called the
112 "Medicaid Preferred Drug List Restricted Account."

113 (b) The account consists of savings to the Medicaid program attributable to the
114 enactment of H.B. 156, "Medicaid Preferred Drug List Amendments," 2015 General Session.

115 (c) Savings to the Medicaid program shall be calculated for each fiscal year by the
116 department.

117 (d) For each fiscal year, the Legislature shall appropriate to the account an amount
118 equal to the savings calculated for the immediately preceding fiscal year, except that

119 appropriations shall be reduced as necessary to ensure that the account's balance does not
120 exceed \$2,000,000.

121 (e) Funds from the account may be used only for appropriations by the Legislature to
122 the Division of Substance Abuse and Mental Health within the Department of Human Services.