

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:

- ▶ amends the definition of "psychotropic drug";
- ▶ authorizes the Department of Health to include all psychotropic drugs on the Medicaid program's preferred drug list;
- ▶ requires the department to report on savings resulting from the preferred drug list;
- ▶ creates the Medicaid Preferred Drug List Restricted Account;
- ▶ requires 40% of the savings attributable to this bill to be deposited into the account;
- ▶ limits use of the account to appropriations to the Division of Substance Abuse and Mental Health within the Department of Human Services; and
- ▶ makes technical amendments.

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~~] as provided in
41 Subsection (2)(b), on a preferred drug list to the extent determined appropriate by the
42 department;

43 (d) notwithstanding the requirements of Part 2, Drug Utilization Review Board, shall
44 immediately implement [~~the~~] prior authorization requirements for a nonpreferred 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), shall establish [~~the~~]
49 prior authorization requirements [~~established~~] under [~~Subsections (1)(c) and (d) which shall~~]
50 Subsection (1)(d) that:

51 (i) permit a health care provider or the health care provider's agent to obtain a prior
52 authorization override of the preferred drug list through the department's pharmacy prior
53 authorization review process[~~, and which shall~~];

54 [~~(i) provide~~] (ii) permit either telephone or fax approval or denial of the request within
55 24 hours of the receipt of a request that is submitted during normal business hours of Monday
56 through Friday from 8 a.m. to 5 p.m.;

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

60 ~~[(iii)]~~ (iv) require the health care provider to provide the department with
61 documentation of the medical need for the preferred drug list override in accordance with
62 criteria established by the department in consultation with the department's Pharmacy and
63 Therapeutics Committee.

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

65 (i) "Immunosuppressive drug":

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

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

71 (ii) "Psychotropic drug" means the following classes of drugs: ~~[atypical anti-psychotic]~~
72 anti-psychotics, anti-depressants, anti-convulsant/mood ~~[stabilizer]~~ stabilizers, anti-anxiety
73 drugs, attention deficit hyperactivity disorder stimulants, or sedative/hypnotics.

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

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

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

87 (d) Notwithstanding the requirements of Part 2, Drug Utilization Review Board, the

88 [state] Medicaid drug program may not require the use of step therapy for immunosuppressive
89 drugs without the written or oral consent of the health care provider and the patient.

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

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

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

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

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

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

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

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

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

111 (3) The department shall report to the Health and Human Services Interim Committee
112 and to the Social Services Appropriations Subcommittee prior to November 1, ~~[2013]~~ 2016,
113 regarding the savings to the Medicaid program resulting from the use of ~~[the]~~ a preferred drug
114 list ~~[permitted by]~~ developed under Subsection (1).

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

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

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

121 (d) For each fiscal year, the Legislature shall appropriate to the account an amount
122 equal to 40% of the savings calculated for the immediately preceding fiscal year, except that
123 appropriations shall be reduced as necessary to ensure that the account's balance does not
124 exceed \$2,000,000.

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