

1 **MEDICAID PREFERRED DRUG LIST AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Raymond P. Ward**

5 Senate Sponsor: Allen M. Christensen

7 **LONG TITLE**

8 **Committee Note:**

9 The Health and Human Services Interim Committee recommended this bill.

10 **General Description:**

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

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ amends definitions;
- 16 ▶ authorizes the Department of Health to consider all psychotropic drugs for inclusion
17 on the Medicaid program's preferred drug list;
- 18 ▶ requires accountable care organizations that contract with Medicaid to pre-authorize
19 psychotropic drugs not on the preferred drug list under certain circumstances;
- 20 ▶ amends the length of the prior authorization to two years;
- 21 ▶ requires the department to report on savings resulting from the preferred drug list;
- 22 ▶ creates the Medicaid Preferred Drug List Restricted Account;
- 23 ▶ requires 40% of the savings attributable to this bill to be deposited into the account;
- 24 ▶ limits use of the account to appropriations to the Department of Human Services;

25 and

- 26 ▶ makes technical amendments.

27 **Money Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **26-18-2.4**, as last amended by Laws of Utah 2012, Chapters 242 and 343



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

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

37 **26-18-2.4. Medicaid drug program -- Preferred drug list.**

38 (1) A Medicaid drug program developed by the department under Subsection
39 **26-18-2.3(2)(f)**:

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

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

45 (c) may include placing some drugs, except [~~the drugs described~~] as provided in
46 Subsection (2)(b), on a preferred drug list to the extent determined appropriate by the
47 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~~]
54 prior authorization requirements [~~established~~] under [~~Subsections (1)(c) and (d) which shall~~]
55 Subsection (1)(d) that:

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

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

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

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

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

70 (i) "Immunosuppressive drug":

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

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

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

79 (iii) "Stabilized" means a health care provider has documented in the patient's medical
80 chart that a patient has achieved a stable [~~or steadfast~~] medical state [~~within the past 90 days~~
81 using] by use of a particular psychotropic drug.

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

85 (c) The [~~state~~] Medicaid program shall reimburse for a prescription for an
86 immunosuppressive drug as written by [~~the~~] a health care provider for a patient who has
87 undergone an organ transplant. For purposes of Subsection 58-17b-606(4), and with respect to
88 patients who have undergone an organ transplant, the prescription for a particular
89 immunosuppressive drug as written by [~~a~~] the health care provider meets the criteria of

90 demonstrating to the [~~Department of Health~~] department a medical necessity for dispensing the
91 prescribed immunosuppressive drug.

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

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

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

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

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

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

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

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

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

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

116 (g) Accountable care organizations that contract with the state Medicaid program shall
117 grant prior authorization for a psychotropic drug that is not on the preferred drug list
118 established by the department if the health care provider has documentation showing at least
119 one of the conditions listed in Subsections (2)(e)(i) through (vi) for the Medicaid client.

120 (3) The department shall report to the Health and Human Services Interim Committee

121 and to the Social Services Appropriations Subcommittee prior to November 1, [2013] 2017,
122 regarding the savings to the Medicaid program resulting from the use of [the] a preferred drug
123 list [~~permitted by~~] developed under Subsection (1).

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

126 (b) The account consists of savings to the Medicaid program attributable to the
127 inclusion of psychotropic drugs on the preferred drug list.

128 (c) Savings to the Medicaid program under Subsection (4)(b) shall be calculated for
129 each fiscal year by the department.

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

134 (e) Funds from the account may be used only for appropriations by the Legislature to
135 the Department of Human Services.

Legislative Review Note
Office of Legislative Research and General Counsel