

Representative Raymond P. Ward proposes the following substitute bill:

MEDICAID PREFERRED DRUG LIST AMENDMENTS

2016 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 definitions;
- ▶ authorizes the Department of Health to include psychotropic drugs, other than injectable versions of atypical antipsychotic drugs, on the Medicaid program's preferred drug list;
- ▶ requires an accountable care organization that contract with Medicaid and is responsible for behavioral health to pre-authorize psychotropic drugs not on the preferred drug list under certain circumstances;
- ▶ amends the length of the prior authorization to two years;
- ▶ requires the department to report on:
 - the impact of placing antipsychotic drugs on the preferred drug list; and
 - 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;



- 26 ▶ limits use of the account to appropriations to the Department of Human Services;
- 27 and
- 28 ▶ makes technical amendments.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **26-18-2.4**, as last amended by Laws of Utah 2012, Chapters 242 and 343



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

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

39 **26-18-2.4. Medicaid drug program -- Preferred drug list.**

40 (1) A Medicaid drug program developed by the department under Subsection
41 **26-18-2.3(2)(f)**:

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

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

47 (c) may include placing some drugs, except [~~the drugs described~~] as provided in
48 Subsection (2)(b), on a preferred drug list to the extent determined appropriate by the
49 department;

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

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

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

55 (e) except as prohibited by Subsections **58-17b-606(4)** and (5), shall establish [~~the~~]
56 prior authorization requirements [~~established~~] under [~~Subsections (1)(c) and (d) which shall~~]

57 Subsection (1)(d) that:

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

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

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

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

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

72 (i) "Immunosuppressive drug":

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

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

78 (ii) (A) "Psychotropic drug" means, except as provided in Subsection (2)(a)(ii)(B), the
79 following classes of drugs: ~~[atypical anti-psychotic]~~ anti-psychotics, anti-depressants,
80 anti-convulsant/mood ~~[stabilizer]~~ stabilizers, anti-anxiety drugs, attention deficit hyperactivity
81 disorder stimulants, or sedative/hypnotics.

82 (B) "Psychotropic drug" does not include a long acting injectable version of an oral
83 atypical antipsychotic drug.

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

87 (b) A preferred drug list developed under the provisions of this section may not

88 include:

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

90 ~~(ii)]~~

91 (i) an immunosuppressive drug[-]; or

92 (ii) a long acting injectable version of an oral atypical antipsychotic drug.

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

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

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

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

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

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

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

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

118 (v) the patient is a new or previous Medicaid client with an existing diagnosis

119 previously stabilized with a nonpreferred drug; or

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

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

124 (h) An accountable care organization that contracts with the state Medicaid program
125 and is responsible for providing behavioral health services shall grant prior authorization for a
126 psychotropic drug that is not on the preferred drug list established by the accountable care
127 organization if the health care provider has documentation showing the Medicaid client meets
128 the conditions in Subsection (2)(e)(v).

129 (3) (a) The department shall report to the Health and Human Services Interim
130 Committee and to the Social Services Appropriations Subcommittee prior to November 1,
131 ~~[2013]~~ 2017, regarding the savings to the Medicaid program resulting from the use of ~~[the]~~ a
132 preferred drug list ~~[permitted by]~~ developed under Subsection (1).

133 (b) The department shall, prior to November 30, 2020, study and report to the Health
134 and Human Services Interim Committee and the Social Services Appropriations Subcommittee
135 the impact of placing antipsychotic drugs on the preferred drug list, including:

136 (i) patient outcomes;

137 (ii) trends related to hospitalizations;

138 (iii) mortality data;

139 (iv) fiscal impact to the program;

140 (v) expenditures of the savings under Subsection (4); and

141 (vi) other items as requested by the Legislature's Health and Humans Services Interim
142 Committee.

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

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

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

149 (d) For each fiscal year, the Legislature shall appropriate to the account an amount

150 equal to 40% of the savings calculated for the immediately preceding fiscal year, except that
151 appropriations shall be reduced as necessary to ensure that the account's balance does not
152 exceed \$2,000,000.

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