

# HB0018S01 compared with HB0018

~~{deleted text}~~ shows text that was in HB0018 but was deleted in HB0018S01.

inserted text shows text that was not in HB0018 but was inserted into HB0018S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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

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### LONG TITLE

~~{Committee Note:~~

~~\_\_\_\_\_The Health and Human Services Interim Committee recommended this bill.~~

~~{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 ~~{consider all}~~ include psychotropic drugs ~~{for inclusion}~~ other than injectable versions of atypical antipsychotic drugs, on the Medicaid program's preferred drug list;
- ▶ requires an accountable care ~~{organizations}~~ organization that contract with

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

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

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

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

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department;

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

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

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

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

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

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

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

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

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

(i) "Immunosuppressive drug":

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

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

(ii) (A) "Psychotropic drug" means, except as provided in Subsection (2)(a)(ii)(B), the following classes of drugs: ~~[atypical anti-psychotic]~~ anti-psychotics, anti-depressants,

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anti-convulsant/mood [~~stabilizer~~] stabilizers, anti-anxiety drugs, attention deficit hyperactivity disorder stimulants, or sedative/hypnotics.

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

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

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

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

(i) an immunosuppressive drug[-]; or

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

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

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

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

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

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

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discontinuation;

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

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

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

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

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

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

~~(g)h~~ ~~Accountable~~ An accountable care ~~organizations~~ organization that ~~contract~~ contracts with the state Medicaid program and is responsible for providing behavioral health services shall grant prior authorization for a psychotropic drug that is not on the preferred drug list established by the ~~department~~ accountable care organization if the health care provider has documentation showing ~~at least one of the conditions listed in Subsections (2)(e)(i) through (vi) for~~ the Medicaid client meets the conditions in Subsection (2)(e)(v).

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

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

(i) patient outcomes;

(ii) trends related to hospitalizations;

(iii) mortality data;

(iv) fiscal impact to the program;

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

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

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

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

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

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

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

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**Legislative Review Note**

**Office of Legislative Research and General Counsel†**