

Representative Brian S. King proposes the following substitute bill:

MENTAL HEALTH TREATMENT AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian S. King

Senate Sponsor: _____

LONG TITLE

General Description:

This bill provides requirements for prescription drug coverage for serious mental illness by health benefit plans.

Highlighted Provisions:

This bill:

- ▶ prohibits a health benefit plan from requiring a covered individual to try alternative prescription drugs before receiving the prescription drug the health care provider prescribed;
- ▶ authorizes the limited use of step-therapy protocol; and
- ▶ provides the circumstances under which a health benefit plan shall provide an exception to a step-therapy protocol.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

31A-22-650.5, Utah Code Annotated 1953



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

Section 1. Section **31A-22-650.5** is enacted to read:

31A-22-650.5. Prescription drug coverage for serious mental illness.

(1) As used in this section:

(a) "Adult enrollee" means an enrollee who is 18 years old or older.

(b) "Drug" means the same as that term is defined in Section [58-17b-102](#).

(c) "Preferred prescription drug" means a drug that is:

(i) prescribed by a health care provider to treat a serious mental illness;

(ii) determined by a health care provider in consultation with the adult enrollee as the most appropriate course of treatment for the adult enrollee's serious mental illness; and

(iii) approved by the United States Food and Drug Administration.

(d) "Serious mental illness" means the following psychiatric illnesses as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual (DSM):

(i) bipolar disorders (hypomanic, manic, depressive, and mixed);

(ii) depression in adolescence;

(iii) major depressive disorders (single episode or recurrent);

(iv) obsessive-compulsive disorders;

(v) paranoid and other psychotic disorders;

(vi) post-traumatic stress disorder;

(vii) schizo-affective disorders (bipolar or depressive); and

(viii) schizophrenia.

(2) A health benefit plan that provides coverage for a serious mental illness may not require, before the health benefit plan provides coverage of a preferred prescription drug, that the adult enrollee:

(a) fail to successfully respond to more than one different drug prescribed to treat a serious mental illness, excluding the generic or pharmaceutical equivalent of the prescribed drug; or

(b) prove a history of failure on more than one different drug, excluding the generic or pharmaceutical equivalent of the prescribed drug.

(3) A health benefit plan may implement a step-therapy protocol to require a trial of a

57 generic or pharmaceutical equivalent of a preferred prescription drug as a condition of
58 continued coverage of the drug only:

59 (a) once in a plan year per adult enrollee; and
60 (b) if the equivalent drug is added to the health benefit plan's drug formulary.

61 (4) A health benefit plan shall grant a written request for an exception to a step-therapy
62 protocol for a preferred prescription drug if the request includes the prescribing health care
63 provider's written statement that any of the following conditions are met:

64 (a) the drug required under the step-therapy protocol:

65 (i) is contraindicated;
66 (ii) is likely to cause an adverse reaction in or physical or mental harm to the adult
67 enrollee; or

68 (iii) is expected to be ineffective based on the known clinical characteristics of the
69 adult enrollee and the known characteristics of the prescription drug regimen;

70 (b) the adult enrollee previously discontinued taking the drug required under the
71 step-therapy protocol, or another drug in the same pharmacologic class or with the same
72 mechanism of action as the required drug, while under the health benefit plan currently in force
73 or while covered under another health benefit plan because the drug:

74 (i) was not effective;
75 (ii) had a diminished effect; or
76 (iii) caused an adverse event;

77 (c) the drug required under the step-therapy protocol is not in the best interest of the
78 adult enrollee, based on clinical appropriateness, because the adult enrollee's use of the drug is
79 expected to:

80 (i) cause a significant barrier to the adult enrollee's adherence to or compliance with the
81 adult enrollee's plan of care;

82 (ii) worsen a comorbid condition of the adult enrollee; or
83 (iii) decrease the adult enrollee's ability to achieve or maintain reasonable functional
84 ability in performing daily activities; or

85 (d) (i) the drug that is subject to the step-therapy protocol was prescribed for the adult
86 enrollee's condition;

87 (ii) the adult enrollee:

88 (A) received benefits for the preferred prescription drug under the health benefit plan
89 currently in force or a previous health benefit plan; and

90 (B) is stable on the preferred prescription drug; and

91 (iii) the change in the adult enrollee's prescription drug regimen required by the
92 step-therapy protocol is expected to be ineffective or cause harm to the adult enrollee based on
93 the known clinical characteristics of the adult enrollee and the known characteristics of the
94 required prescription drug regimen.

95 (5) Subsections (2) through (4) do not preclude a pharmacist from substituting a
96 generic equivalent or one or more interchangeable biological products for a preferred
97 prescription drug.

98 (6) The provisions of this section apply notwithstanding any prohibition on an insurer
99 modifying preauthorization requirements for a drug under Section [31A-22-650](#).

100 (7) This section applies to a health plan that is entered into or renewed on or after July
101 1, 2023.