

1 **PSYCHOTROPIC MEDICATION OVERSIGHT PILOT**

2 **PROGRAM AMENDMENTS**

3 2024 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Steve Eliason**

6 Senate Sponsor: Michael S. Kennedy

7

8 **LONG TITLE**

9 **Committee Note:**

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

11 Legislative Vote: 12 voting for 0 voting against 7 absent

12 **General Description:**

13 This bill amends provisions related to the psychotropic medication oversight pilot
14 program.

15 **Highlighted Provisions:**

16 This bill:

17 ▶ removes a repeal date for the psychotropic medication oversight pilot program
18 (program);

19 ▶ amends provisions to make the program permanent;

20 ▶ moves operation of the program from the Division of Child and Family Services to
21 the Division of Integrated Healthcare (division);

22 ▶ addresses the membership of the program's oversight team;

23 ▶ amends provisions regarding the duties of the oversight team and a foster child's
24 caseworker;

25 ▶ adds certain reporting requirements for the division and the oversight team;

26 ▶ requires the Department of Health and Human Services to pay standard Medicaid
27 rates for outpatient behavioral health services for children in foster care; and



28 ▶ makes technical and conforming changes.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **63I-1-280**, as enacted by Laws of Utah 2022, Chapter 335

36 **80-2-503.5**, as last amended by Laws of Utah 2023, Chapter 309



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

39 Section 1. Section **63I-1-280** is amended to read:

40 **63I-1-280. Repeal dates: Title 80.**

41 [Section ~~80-2-503.5~~ is repealed July 1, 2024.]

42 Section 2. Section **80-2-503.5** is amended to read:

43 **80-2-503.5. Psychotropic medication oversight program -- Behavioral health**
44 **service rates for children in foster care.**

45 (1) As used in this section[;]:

46 (a) "Advanced practice registered nurse" means an individual licensed to practice as an
47 advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.

48 (b) "Division" means the Division of Integrated Healthcare created in Section
49 26B-1-204.

50 (c) "HIPAA" means 45 C.F.R. Parts 160, 162, and 164, Health Insurance Portability
51 and Accountability Act of 1996, as amended.

52 (d) "Physician assistant" means an individual licensed to practice as a physician
53 assistant in this state under Title 58, Chapter 70a, Utah Physician Assistant Act.

54 (e) [~~"psychotropic~~] "Psychotropic medication" means medication prescribed to affect
55 or alter thought processes, mood, or behavior, including antipsychotic, antidepressant,
56 anxiolytic, or behavior medication.

57 (2) The division shall, through contract with the [~~Department of Health and Human~~
58 ~~Services~~] University of Utah or another qualified third party, [~~establish and~~] operate a

59 psychotropic medication oversight [~~pilot~~] program for children in foster care to ensure that
60 [~~foster children are being~~] each foster child is prescribed psychotropic medication consistent
61 with the foster [~~children's~~] child's needs and consistent with clinical best practices.

62 (3) The division shall [~~establish~~] operate an oversight team to manage the psychotropic
63 medication oversight program, composed of at least the following individuals:

64 (a) a physician assistant with pediatric mental health experience, or an advanced
65 practice registered nurse[~~, as defined in Section 58-31b-102;~~] with pediatric mental health
66 experience, contracted with the [~~Department of Health and Human Services~~] division; [and]

67 (b) a child psychiatrist[~~;~~] contracted with the division;

68 (c) a data analyst contracted with the division; and

69 (d) an individual with care coordination experience.

70 (4) The oversight team shall monitor foster children:

71 (a) six years old or younger who are being prescribed one or more psychotropic
72 medications; [~~and~~]

73 (b) seven years old or older who are being prescribed two or more psychotropic
74 medications[~~;~~]; and

75 (c) who are prescribed one or more antipsychotic medications.

76 (5) The division shall establish a business associate agreement with the oversight team
77 by which the oversight team shall, upon request, be given information or records related to the
78 foster child's health care history, including psychotropic medication history and mental and
79 behavioral health history, from:

80 (a) the division's Medicaid pharmacy program;

81 (b) the department's written and electronic records and databases;

82 (c) the foster child's current or past caseworker;

83 [~~(b)~~] (d) the foster child; or

84 [~~(c)~~] (e) the foster child's:

85 (i) current or past health care provider;

86 (ii) natural parents; or

87 (iii) foster parents.

88 (6) The oversight team may review and monitor the following information about a
89 foster child:

- 90 (a) the foster child's history;
- 91 (b) the foster child's health care, including psychotropic medication history and mental
92 or behavioral health history;
- 93 (c) whether there are less invasive treatment options available to meet the foster child's
94 needs;
- 95 (d) the dosage or dosage range and appropriateness of the foster child's psychotropic
96 medication;
- 97 (e) the short-term or long-term risks associated with the use of the foster child's
98 psychotropic medication; or
- 99 (f) the reported benefits of the foster child's psychotropic medication.
- 100 (7) (a) ~~[The]~~ On at least a quarterly basis, the oversight team [may] shall:
- 101 (i) review the medical and mental or behavioral health history for each foster child
102 overseen by the program;
- 103 (ii) based on the review under Subsection (7)(a)(i), document the oversight team's
104 findings and recommendations; and
- 105 (iii) make written recommendations [to the foster child's health care providers]
106 concerning the foster child's psychotropic medication [or] and the foster child's mental or
107 behavioral health, including any recommendation for psychotherapy treatment.
- 108 (b) ~~The oversight [team shall provide the] team's recommendations [made] described~~
109 ~~in Subsection (7)(a) [to the foster child's parent or guardian after discussing the~~
110 ~~recommendations with the foster child's current health care providers]~~ shall be provided to the
111 foster child's current caseworker, the foster child's parent or guardian, and the foster child's
112 current health care providers, in accordance with rules adopted pursuant to Subsection (8) and
113 in compliance with HIPAA and other relevant state and federal privacy laws.
- 114 (c) The member of the oversight team described in Subsection (3)(d) shall:
- 115 (i) provide the recommendations described in Subsection (7)(a) in writing and verbally,
116 or as otherwise provided in rules adopted pursuant to Subsection (8), to the foster child's
117 current health care providers; and
- 118 (ii) on at least a semiannual basis, follow up with the foster child's current health care
119 providers to document whether recommendations made by the oversight team have been
120 implemented.

121 (d) A foster child's caseworker shall maintain a confidential record of
122 recommendations provided to the caseworker under Subsection (7)(b).

123 (8) The division may adopt administrative rules in accordance with Title 63G, Chapter
124 3, Utah Administrative Rulemaking Act, necessary to administer this section, including the
125 rules described in Subsection (7)(b).

126 (9) The division shall report regarding the psychotropic medication oversight program:
127 (a) to the Child Welfare Legislative Oversight Panel [~~regarding the psychotropic~~
128 medication oversight pilot program] by October 1 of each even numbered year[-]; and

129 (b) orally to the Health and Human Services Interim Committee, at least once every
130 two years at or before the October meeting.

131 (10) The oversight team shall report:

132 (a) quarterly to the division regarding the number of foster children reviewed and the
133 number of recommendations made; and

134 (b) annually to the division regarding outcomes for foster children overseen by the
135 program.

136 (11) Beginning on July 1, 2024, the department shall pay for outpatient behavioral
137 health services for children in foster care at a rate no lower than the standard Medicaid fee
138 schedule.

139 Section 3. **Effective date.**

140 This bill takes effect on May 1, 2024.