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H.B. 18
2nd Sub. (Gray)

Representative Paul Ray 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 on the Medicaid program's 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:

2nd Sub. H.B. 18

AMENDS:

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

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 in Subsection (2), on a preferred drug list:

(i) to the extent determined appropriate by the department; and

(ii) in the manner described in Subsection (3) for psychotropic drugs;

(d) notwithstanding the requirements of Part 2, Drug Utilization Review Board, and except as provided in Subsection (3), 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 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:

(i) 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.;

(ii) 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

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

[~~(iii)~~] (ii) "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 a particular psychotropic drug.

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

(c) The state Medicaid program shall reimburse for a prescription for an immunosuppressive drug as written by the 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 health care provider meets the criteria of demonstrating to the Department of Health 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) The department shall grant a prior authorization for a sedative hypnotic that is not on the preferred drug list under Subsection (2)(e), if the health care provider has documentation related to 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 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) A prior authorization granted under Subsection (2)(f) is valid for one year from the date the department grants the prior authorization and shall be renewed in accordance with Subsection (2)(f).

(3) (a) For purposes of this Subsection (3), "psychotropic drug" means the following classes of drugs:

(i) atypical anti-psychotic;

(ii) anti-depressant;

(iv) anti-convulsant/mood stabilizer;

(v) anti-anxiety; and

(vi) attention deficit hyperactivity disorder stimulant.

(b) The department shall, by July 1, 2016, develop a preferred drug list for psychotropic drugs. Except as provided in Subsection (3)(d), a preferred drug list for psychotropic drugs developed under this section shall allow a health care provider to override the preferred drug list by writing "dispense as written" on the prescription for the psychotropic drug. A healthcare provider may not override Section 58-17b-606 by writing "dispense as

written" on a prescription.

(c) The department, and a Medicaid accountable care organization that is responsible for providing behavioral health, shall:

(i) establish a system to:

(A) track health care provider prescribing patterns for psychotropic drugs;

(B) educate health care providers who are not complying with the preferred drug list; and

(C) implement peer to peer education for health care providers whose prescribing practices continue to not comply with the preferred drug list; and

(ii) determine whether health care provider compliance with the preferred drug list is at least:

(A) 55% Ĥ→ **of prescriptions** ←Ĥ by July 1, 2017;

(B) 65% Ĥ→ **of prescriptions** ←Ĥ by July 1, 2018; and

(C) 75% Ĥ→ **of prescriptions** ←Ĥ by July 1, 2019.

(d) Beginning October 1, 2019, the department shall eliminate the dispense as written override for the preferred drug list, and shall implement a prior authorization system for psychotropic drugs, in accordance with Subsection (2)(f), if by July 1, 2019 Ĥ→ **[~~:~~**

~~(i) health care provider compliance with the psychotropic drug preferred drug list is not at least 75%; or~~

~~(ii)~~] , ←Ĥ the department has not realized Ĥ→ **[~~its projected~~] annual** ←Ĥ savings from implementing the preferred drug list for psychotropic drugs Ĥ→ **of at least $750,000, in General Fund savings** ←Ĥ .

Ĥ→ **(e) The department shall report to the Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee before November 30, 2016, and before each November 30 thereafter regarding compliance with and savings from implementation of Subsection (3).** ←Ĥ

[~~(3)~~] (4) The department shall report to the Health and Human Services Interim Committee and to the Social Services Appropriations Subcommittee [~~prior to~~] before November 1, [~~2013~~] 2016, and before each November 30 thereafter, regarding Ĥ→ **[~~:~~**

~~(a)~~] ←Ĥ the savings to the Medicaid program resulting from the use of the preferred drug list permitted by Subsection (1) Ĥ→ **[~~.~~]~~; and~~**

~~(b) the compliance with and savings from the use of the preferred drug list for psychotropic drugs under Subsection (3)~~] ←Ĥ .

(5) (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.