

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

BILL F

LLS NO. 18-0257.01 Brita Darling x2241

HOUSE BILL

HOUSE SPONSORSHIP

Kennedy and Singer, Pettersen

SENATE SPONSORSHIP

Lambert and Jahn, Aguilar, Tate

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PAYMENT ISSUES RELATED TO SUBSTANCE USE**
102 **DISORDERS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Opioid and Other Substance Use Disorders Interim Study Committee. The bill requires all individual and group health benefit plans to provide coverage without prior authorization for a five-day supply of buprenorphine for a first request within a 12-month period.

Additionally, all individual and group health benefit plans that cover physical therapy, acupuncture, or chiropractic services shall not

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

subject those services to dollar limits, deductibles, copayments, or coinsurance provisions that are less favorable than those applicable to primary care services under the plan if the covered person has a diagnosis of chronic pain and has or has had a substance use disorder diagnosis.

The bill prohibits carriers from taking adverse action against a provider or from providing financial incentives or disincentives to a provider based solely on a patient satisfaction survey relating to the patient's satisfaction with pain treatment.

The bill clarifies that an "urgent prior authorization request" to a carrier includes a request for authorization of medication-assisted treatment for substance use disorders.

The bill permits a pharmacist who has entered into a collaborative pharmacy practice agreement with one or more physicians to administer injectable medication-assisted treatment for substance use disorders and receive an enhanced dispensing fee for the administration.

The bill prohibits carriers from requiring a covered person to undergo step therapy using a prescription drug or drugs that include an opioid before covering a non-opioid prescription drug recommended by the covered person's provider.

The bill requires the Colorado medical assistance program to authorize reimbursement for a ready-to-use version of intranasal naloxone hydrochloride without prior authorization.

The bill prohibits the requirement that a recipient of medical assistance undergo a step-therapy protocol using a prescription drug containing an opioid prior to authorizing reimbursement for a non-opioid prescription drug recommended by the person's health care provider.

The bill permits a pharmacist who has entered into a collaborative pharmacy practice agreement with one or more physicians to administer injectable medication-assisted treatment for substance use disorders and receive an enhanced dispensing fee under the Colorado medical assistance program for the administration.

The bill requires the department of health care policy and financing and the office of behavioral health in the department of human services to establish rules that standardize utilization management authority timelines for the non-pharmaceutical components of medication-assisted treatment for substance use disorders.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 10-16-104, **amend**
3 (5.5)(a)(III); and **add** (23) as follows:

4 **10-16-104. Mandatory coverage provisions - definitions -**

1 **rules. (5.5) Behavioral, mental health, and substance use disorders**
2 **- rules. (a) (III) (A) EXCEPT AS PROVIDED IN SUBSECTION (5.5)(a)(III)(B)**
3 **OF THIS SECTION, any preauthorization or utilization review mechanism**
4 **used in the determination to provide the coverage required by this**
5 **paragraph (a) SUBSECTION (5.5)(a) must be the same as, or no more**
6 **restrictive than, that used in the determination to provide coverage for a**
7 **physical illness. The commissioner shall adopt rules as necessary to**
8 **implement and administer this subsection (5.5).**

9 (B) A HEALTH BENEFIT PLAN SUBJECT TO THIS SUBSECTION (5.5)
10 MUST PROVIDE COVERAGE WITHOUT PRIOR AUTHORIZATION FOR A
11 FIVE-DAY SUPPLY OF BUPRENORPHINE; EXCEPT THAT THIS REQUIREMENT
12 IS LIMITED TO A FIRST REQUEST FOR BUPRENORPHINE IN A TWELVE-MONTH
13 PERIOD.

14 (23) **Treatment for pain. (a) ALL INDIVIDUAL AND GROUP**
15 **HEALTH BENEFIT PLANS THAT PROVIDE A BENEFIT FOR PHYSICAL THERAPY,**
16 **ACUPUNCTURE, OR CHIROPRACTIC CARE SHALL NOT SUBJECT THOSE**
17 **SERVICES TO DOLLAR LIMITS, DEDUCTIBLES, COPAYMENTS, OR**
18 **COINSURANCE PROVISIONS THAT ARE LESS FAVORABLE TO THE COVERED**
19 **PERSON THAN THE DOLLAR LIMITS, DEDUCTIBLES, COPAYMENTS, OR**
20 **COINSURANCE PROVISIONS THAT APPLY TO PRIMARY CARE SERVICES IF THE**
21 **PHYSICAL THERAPY, ACUPUNCTURE, OR CHIROPRACTIC CARE SERVICES**
22 **ARE AUTHORIZED FOR TREATMENT OF A COVERED PERSON WHO IS**
23 **DIAGNOSED WITH CHRONIC PAIN AND WHO HAS OR HAS HAD A SUBSTANCE**
24 **USE DISORDER DIAGNOSIS.**

25 (b) THIS SUBSECTION (23) DOES NOT APPLY TO SUPPLEMENTAL
26 POLICIES COVERING A SPECIFIC DISEASE OR OTHER LIMITED BENEFIT.

27 **SECTION 2. In Colorado Revised Statutes, 10-16-121, add**

1 (1)(e) as follows:

2 **10-16-121. Required contract provisions in contracts between**
3 **carriers and providers - definitions.** (1) A contract between a carrier
4 and a provider or its representative concerning the delivery, provision,
5 payment, or offering of care or services covered by a managed care plan
6 must make provisions for the following requirements:

7 (e) THE CONTRACT MUST CONTAIN A PROVISION THAT STATES THE
8 CARRIER SHALL NOT TAKE AN ADVERSE ACTION AGAINST A PROVIDER OR
9 PROVIDE FINANCIAL INCENTIVES OR SUBJECT THE PROVIDER TO FINANCIAL
10 DISINCENTIVES BASED SOLELY ON A PATIENT SATISFACTION SURVEY OR
11 OTHER METHOD OF OBTAINING PATIENT FEEDBACK RELATING TO THE
12 PATIENT'S SATISFACTION WITH PAIN TREATMENT.

13 **SECTION 3.** In Colorado Revised Statutes, 10-16-124.5, **amend**
14 (8)(b) as follows:

15 **10-16-124.5. Prior authorization form - drug benefits - rules**
16 **of commissioner - definitions.** (8) As used in this section:

17 (b) "Urgent prior authorization request" means:

18 (I) A request for prior authorization of a drug benefit that, based
19 on the reasonable opinion of the prescribing provider with knowledge of
20 the covered person's medical condition, if determined in the time allowed
21 for nonurgent prior authorization requests, could:

22 ~~(H)~~ (A) Seriously jeopardize the life or health of the covered
23 person or the ability of the covered person to regain maximum function;
24 or

25 ~~(H)~~ (B) Subject the covered person to severe pain that cannot be
26 adequately managed without the drug benefit that is the subject of the
27 prior authorization request; OR

1 (II) A REQUEST FOR PRIOR AUTHORIZATION FOR
2 MEDICATION-ASSISTED TREATMENT FOR SUBSTANCE USE DISORDERS.

3 **SECTION 4.** In Colorado Revised Statutes, **add** 10-16-143.5 as
4 follows:

5 **10-16-143.5. Pharmacist reimbursement - substance use**
6 **disorder - injections.** IF A PHARMACIST HAS ENTERED INTO A
7 COLLABORATIVE PHARMACY PRACTICE AGREEMENT WITH ONE OR MORE
8 PHYSICIANS PURSUANT TO SECTION 12-42.5-602 TO ADMINISTER INJECTION
9 MEDICATION FOR MEDICATION-ASSISTED TREATMENT FOR SUBSTANCE USE
10 DISORDERS, THE PHARMACIST ADMINISTERING THE DRUG SHALL RECEIVE
11 AN ENHANCED DISPENSING FEE THAT ALIGNS WITH THE ADMINISTRATION
12 FEE PAID TO A PROVIDER IN A CLINICAL SETTING.

13 **SECTION 5.** In Colorado Revised Statutes, 10-16-145, **add** (5)
14 as follows:

15 **10-16-145. Step therapy - limitations - prohibition -**
16 **definitions.** (5) NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, A
17 CARRIER SHALL NOT REQUIRE A COVERED PERSON TO UNDERGO STEP
18 THERAPY WITH A PRESCRIPTION DRUG OR SEQUENCE OF PRESCRIPTION
19 DRUGS CONTAINING AN OPIOID BEFORE THE CARRIER PROVIDES COVERAGE
20 FOR A NON-OPIOID PRESCRIPTION DRUG RECOMMENDED BY THE COVERED
21 PERSON'S PROVIDER FOR THE COVERED PERSON'S TREATMENT.

22 **SECTION 6.** In Colorado Revised Statutes, 25.5-5-411, **amend**
23 (4)(b) as follows:

24 **25.5-5-411. Medicaid community mental health services -**
25 **legislative declaration - administration - rules.** (4) (b) (I) The state
26 department shall establish cost-effective, capitated rates for community
27 mental health services in a manner that includes cost containment

1 mechanisms. These cost containment mechanisms may include, but are
2 not limited to, restricting average per member per month utilization
3 growth, restricting unit cost growth, limiting allowable administrative
4 cost, establishing minimum medical loss ratios, or establishing other cost
5 containment mechanisms that the state department determines
6 appropriate.

7 (II) THE STATE DEPARTMENT AND THE OFFICE OF BEHAVIORAL
8 HEALTH IN THE DEPARTMENT OF HUMAN SERVICES, IN COLLABORATION
9 WITH COMMUNITY MENTAL HEALTH SERVICES PROVIDERS, SHALL
10 ESTABLISH RULES THAT STANDARDIZE UTILIZATION MANAGEMENT
11 AUTHORITY TIMELINES FOR THE NON-PHARMACEUTICAL COMPONENTS OF
12 MEDICATION-ASSISTED TREATMENT FOR SUBSTANCE USE DISORDERS.

13 **SECTION 7.** In Colorado Revised Statutes, **add 25.5-5-509** as
14 follows:

15 **25.5-5-509. Substance use disorder - prescription drugs - step**
16 **therapy prohibited - definition.** (1) NOTWITHSTANDING ANY
17 PROVISIONS OF THIS PART 5 TO THE CONTRARY, FOR THE TREATMENT OF A
18 SUBSTANCE USE DISORDER, IN PROMULGATING RULES, AND SUBJECT TO
19 ANY NECESSARY FEDERAL AUTHORIZATION, THE STATE BOARD:

20 (a) SHALL AUTHORIZE REIMBURSEMENT FOR A FEDERAL DRUG
21 ADMINISTRATION-APPROVED READY-TO-USE INTRANASAL FORM OF
22 NALOXONE HYDROCHLORIDE WITHOUT PRIOR AUTHORIZATION; AND

23 (b) SHALL NOT REQUIRE A MEDICAL ASSISTANCE RECIPIENT TO
24 UNDERGO A STEP-THERAPY PROTOCOL USING A PRESCRIPTION DRUG OR
25 SEQUENCE OF PRESCRIPTION DRUGS CONTAINING AN OPIOID BEFORE
26 AUTHORIZING REIMBURSEMENT FOR A NON-OPIOID PRESCRIPTION DRUG
27 RECOMMENDED BY THE MEDICAL ASSISTANCE RECIPIENT'S HEALTH CARE

1 PROVIDER FOR THAT PERSON'S TREATMENT.

2 **SECTION 8.** In Colorado Revised Statutes, **add 25.5-5-510** as
3 follows:

4 **25.5-5-510. Pharmacist reimbursement - substance use**
5 **disorder - injections.** IF A PHARMACIST HAS ENTERED INTO A
6 COLLABORATIVE PHARMACY PRACTICE AGREEMENT WITH ONE OR MORE
7 PHYSICIANS PURSUANT TO SECTION 12-42.5-602 TO ADMINISTER INJECTION
8 MEDICATION FOR MEDICATION-ASSISTED TREATMENT FOR SUBSTANCE USE
9 DISORDERS, THE PHARMACIST ADMINISTERING THE DRUG SHALL RECEIVE
10 AN ENHANCED DISPENSING FEE THAT ALIGNS WITH THE ADMINISTRATION
11 FEE PAID TO A PROVIDER IN A CLINICAL SETTING.

12 **SECTION 9. Act subject to petition - effective date.** This act
13 takes effect January 1, 2019; except that, if a referendum petition is filed
14 pursuant to section 1 (3) of article V of the state constitution against this
15 act or an item, section, or part of this act within the ninety-day period
16 after final adjournment of the general assembly, then the act, item,
17 section, or part will not take effect unless approved by the people at the
18 general election to be held in November 2018 and, in such case, will take
19 effect on January 1, 2019, or on the date of the official declaration of the
20 vote thereon by the governor, whichever is later.