

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 23-0232.01 Shelby Ross x4510

HOUSE BILL 23-1183

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A BILL FOR AN ACT

101 **CONCERNING MEDICAID PRIOR AUTHORIZATION REQUESTS FOR A**
102 **STEP-THERAPY EXCEPTION AND, IN CONNECTION THEREWITH,**
103 **MAKING AN APPROPRIATION.**

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>.)

The bill requires the department of health care policy and financing (state department) to grant an exception to step therapy if the prescribing provider submits a prior authorization request with justification and supporting clinical documentation for treatment of a serious or complex medical condition. The bill requires the state

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

SENATE
3rd Reading Unamended
April 12, 2023

SENATE
Amended 2nd Reading
April 11, 2023

HOUSE
3rd Reading Unamended
March 20, 2023

HOUSE
Amended 2nd Reading
March 17, 2023

department to provide a response to a prior authorization request for a step-therapy exception within 24 hours after receipt of the request.

If a prior authorization request for a step-therapy exception is incomplete or if additional clinically relevant information is required, the bill requires the state department to notify the prescribing provider within 24 hours after the submission of the request. If the state department does not receive a response within 72 hours after the state department's request for additional information, the prior authorization is denied. If the prior authorization request is denied, the bill requires the state department to inform the recipient in writing that the recipient has a right to appeal the determination.

If the state department does not make a determination regarding the step-therapy exception request, respond to the appeal of the denial of the request, or request additional clinically relevant information, the step-therapy exception request or the appeal of the denial is deemed granted. The bill requires the state department to authorize coverage for the prescription drug prescribed by the recipient's prescribing provider if the prior authorization request for a step-therapy exception request is granted.

The bill requires the state department to make the prior authorization requirements for coverage of prescription drugs and a description of the step-therapy exemption process available on the state department's website and provide to the recipient, upon written request, all specific clinical review criteria and other clinical information relating to a recipient's particular condition or disease.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 25.5-4-427 as
3 follows:

4 **25.5-4-427. Prior authorization for a step-therapy exception**
5 **- rules - definition.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
6 OTHERWISE REQUIRES, "STEP THERAPY" MEANS A PROTOCOL THAT
7 REQUIRES A RECIPIENT TO USE A PRESCRIPTION DRUG OR SEQUENCE OF
8 PRESCRIPTION DRUGS, OTHER THAN THE DRUG THAT THE RECIPIENT'S
9 HEALTH-CARE PROVIDER RECOMMENDS FOR THE RECIPIENT'S TREATMENT,
10 BEFORE THE STATE DEPARTMENT PROVIDES COVERAGE FOR THE
11 RECOMMENDED PRESCRIPTION DRUG.

1 (2) (a) THE STATE DEPARTMENT SHALL REVIEW AND DETERMINE
2 IF AN EXCEPTION TO STEP THERAPY IS GRANTED IF THE PRESCRIBING
3 PROVIDER SUBMITS A PRIOR AUTHORIZATION REQUEST WITH JUSTIFICATION
4 AND SUPPORTING CLINICAL DOCUMENTATION FOR TREATMENT OF A
5 SERIOUS OR COMPLEX MEDICAL CONDITION, IF REQUIRED, THAT STATES:

6 (I) THE PROVIDER ATTESTS THAT THE REQUIRED PRESCRIPTION
7 DRUG IS CONTRAINDICATED, OR WILL LIKELY CAUSE INTOLERABLE SIDE
8 EFFECTS, A SIGNIFICANT DRUG-DRUG INTERACTION, OR AN ALLERGIC
9 REACTION TO THE RECIPIENT;

10 (II) THE REQUIRED PRESCRIPTION DRUG LACKS EFFICACY BASED ON
11 THE KNOWN CLINICAL CHARACTERISTICS OF THE RECIPIENT AND THE
12 KNOWN CHARACTERISTICS OF THE PRESCRIPTION DRUG REGIMEN;

13 (III) THE RECIPIENT HAS TRIED THE REQUIRED PRESCRIPTION DRUG,
14 AND THE USE OF THE PRESCRIPTION DRUG BY THE RECIPIENT WAS
15 DISCONTINUED DUE TO INTOLERABLE SIDE EFFECTS, A SIGNIFICANT
16 DRUG-DRUG INTERACTION, OR AN ALLERGIC REACTION; OR


17 (IV) THE RECIPIENT IS STABLE ON A PRESCRIPTION DRUG SELECTED
18 BY THE PRESCRIBING PROVIDER FOR THE MEDICAL CONDITION.

19 (b) (I) EXCEPT AS PROVIDED IN SUBSECTION (2)(b)(II) OF THIS
20 SECTION, THE STATE DEPARTMENT SHALL PROVIDE A RESPONSE TO A PRIOR
21 AUTHORIZATION REQUEST FOR A STEP-THERAPY EXCEPTION WITHIN
22 TWENTY-FOUR HOURS AFTER RECEIPT OF THE REQUEST.

23 (II) IF A PRIOR AUTHORIZATION REQUEST FOR A STEP-THERAPY
24 EXCEPTION IS INCOMPLETE OR IF ADDITIONAL CLINICALLY RELEVANT
25 INFORMATION IS REQUIRED, THE STATE DEPARTMENT SHALL NOTIFY THE
26 PRESCRIBING PROVIDER WITHIN TWENTY-FOUR HOURS AFTER THE
27 SUBMISSION OF THE REQUEST THAT THE REQUEST IS INCOMPLETE OR THAT

1 ADDITIONAL CLINICALLY RELEVANT INFORMATION IS REQUIRED. THE
2 STATE DEPARTMENT SHALL SPECIFY THE ADDITIONAL INFORMATION THAT
3 IS REQUIRED IN ORDER TO CONSIDER THE PRIOR AUTHORIZATION REQUEST.
4 IF THE STATE DEPARTMENT DOES NOT RECEIVE A RESPONSE WITHIN
5 SEVENTY-TWO HOURS AFTER THE STATE DEPARTMENT'S REQUEST FOR
6 ADDITIONAL INFORMATION, THE PRIOR AUTHORIZATION REQUEST IS
7 DENIED. IF THE STATE DEPARTMENT RECEIVES A TIMELY RESPONSE FROM
8 THE PROVIDER, THE STATE DEPARTMENT SHALL PROVIDE A RESPONSE
9 WITHIN TWENTY-FOUR HOURS AFTER RECEIVING THE RESPONSE.

10 (c) IF THE PRIOR AUTHORIZATION REQUEST FOR A STEP-THERAPY
11 EXCEPTION IS DENIED, THE STATE DEPARTMENT SHALL INFORM THE
12 RECIPIENT IN WRITING THAT THE RECIPIENT HAS THE RIGHT TO APPEAL THE
13 ADVERSE DETERMINATION PURSUANT TO STATE DEPARTMENT RULES.

14 
15 (3) IF THE PRIOR AUTHORIZATION REQUEST FOR A STEP-THERAPY
16 EXCEPTION REQUEST IS GRANTED, THE STATE DEPARTMENT SHALL
17 AUTHORIZE COVERAGE FOR THE PRESCRIPTION DRUG PRESCRIBED BY THE
18 RECIPIENT'S PRESCRIBING PROVIDER.

19 (4) THE STATE DEPARTMENT SHALL MAKE THE PRIOR
20 AUTHORIZATION REQUIREMENTS FOR COVERAGE OF PRESCRIPTION DRUGS
21 AND A DESCRIPTION OF THE STEP-THERAPY EXEMPTION PROCESS
22 AVAILABLE ON THE STATE DEPARTMENT'S WEBSITE.

23 
24 (5) THIS SECTION DOES NOT PROHIBIT:

25 (a) THE STATE DEPARTMENT FROM REQUIRING A RECIPIENT TO
26 TRY A GENERIC EQUIVALENT OF A BRAND NAME DRUG, A BIOSIMILAR DRUG
27 AS DEFINED IN 42 U.S.C. SEC. 262 (i)(2), OR AN INTERCHANGEABLE

1 BIOLOGICAL PRODUCT AS DEFINED IN 42 U.S.C. SEC. 262 (i)(3), UNLESS
2 SUCH A REQUIREMENT MEETS ANY OF THE CRITERIA SET FORTH IN
3 SUBSECTION (2)(a) OF THIS SECTION FOR AN EXCEPTION TO STEP THERAPY
4 AND A PRIOR AUTHORIZATION REQUEST IS GRANTED FOR THE REQUESTED
5 DRUG;

6 (b) THE STATE DEPARTMENT FROM DENYING A PRIOR
7 AUTHORIZATION REQUEST FOR A STEP-THERAPY EXCEPTION WHEN THE
8 REQUEST DOES NOT MEET ONE OF THE CRITERIA SET FORTH IN SUBSECTION
9 (2)(a) OF THIS SECTION BASED ON THE JUSTIFICATION AND SUPPORTING
10 CLINICAL DOCUMENTATION SUBMITTED BY THE PROVIDER, IF APPLICABLE;
11 OR

12 (c) A PROVIDER FROM PRESCRIBING A DRUG THAT, IN THE
13 PROVIDER'S CLINICAL JUDGMENT, IS DETERMINED TO BE MEDICALLY
14 APPROPRIATE.

15 (6) THE STATE BOARD MAY PROMULGATE RULES TO IMPLEMENT
16 THIS SECTION.

17 **SECTION 2. Appropriation.** (1) For the 2023-24 state fiscal
18 year, \$56,250 is appropriated to the department of health care policy and
19 financing. This appropriation is from the general fund. To implement this
20 act, the department may use this appropriation for Medicaid management
21 information system maintenance and projects.

22 (2) For the 2023-24 state fiscal year, the general assembly
23 anticipates that the department of health care policy and financing will
24 receive \$168,750 in federal funds for Medicaid management information
25 system maintenance and projects to implement this act. The appropriation
26 in subsection (1) of this section is based on the assumption that the
27 department will receive this amount of federal funds, which is subject to

1 the "(I)" notation as defined in the annual general appropriation act for the
2 same fiscal year.

3 **SECTION 3. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, or safety.