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Final Fiscal Note

Drafting Number: LLS 23-0232 Date: June 20, 2023
Prime Sponsors: Rep. Jodeh; Sirota Bill Status: Signed into Law
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Bill Topic: PRIOR AUTHORIZATION FOR STEP-THERAPY EXCEPTION

- Summary of Fiscal Impact:
- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill establishes an exemption process from Medicaid's step-therapy requirements. The bill increases state expenditures on an ongoing basis.

Appropriation Summary: For FY 2023-24, the bill requires and includes an appropriation of \$225,000 to the Department of Health Care Policy and Financing.

Fiscal Note Status: The fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under HB 23-1183

Table with 4 columns: Category, Sub-category, Budget Year FY 2023-24, and Out Year FY 2024-25. Rows include Revenue, Expenditures (General Fund, Federal Funds, Total Expenditures), Transfers, and Other Budget Impacts (General Fund Reserve).

Summary of Legislation

The bill requires the Department of Health Care Policy and Financing (HCPF) to review applications to exempt prescriptions for serious or complex medical conditions from any requirement to try an alternative drug (step-therapy requirement) if the prescribing provider attests that:

- the alternative drug is likely to cause a negative reaction,
- the alternative drug is unlikely to work based on patient characteristics or history, or
- the patient is stable on the prescribed drug and can provide supporting clinical documentation.

The bill requires HCPF to either provide a response to, or request additional information on, exemption requests within 24 hours. If providers do not respond to requests for additional information within 72 hours, the exemption request is denied. HCPF must establish an appeals process and inform denied recipients of the right to appeal, and respond to appeals within 24 hours.

Finally, HCPF must make prior authorization requirements for coverage of prescription drugs and a description of the step-therapy exemption process available on its website.

Background

Preferred drug list. HCPF maintains a preferred drug list to increase rebate collections from drug manufacturers in exchange for placement on the list. Drugs that are on the preferred list are not subject to prior authorization requirements, which results in a shift in utilization to the preferred drugs and allows the state to maximize the supplemental rebates it collects from drug manufacturers. When providers prescribe a drug that is not on the preferred list, step-therapy requirements frequently require Medicaid members to fail on a drug on the preferred list before Medicaid covers the non-preferred drug.

Continuation of therapy allowance. HCPF exempts certain drug classes from step-therapy requirements when the HCPF clinical review, with input from the Pharmacy and Therapeutics Committee and the Drug Utilization Review Board, determines that movement between drugs in the class is detrimental to patient health. This is referred to as a continuation of therapy allowance. It is frequently granted to conditions that often require multiple drug trials before a patient is stable, including serious mental health conditions, multiple sclerosis, and seizure disorder.

State Expenditures

Department of Health Care Policy and Financing. HCPF currently uses a contractor to conduct prior authorization reviews. Review of additional exemption requests under the bill will increase the cost of this contract by \$225,000 annually. This cost is eligible for a 75 percent federal match.

Effective Date

The bill was signed into law by the Governor and took effect on May 1, 2023.

State Appropriations

For FY 2023-24, the bill requires and includes an appropriation of \$225,000 to the Department of Health Care Policy and Financing, including \$56,250 from the General Fund, and \$168,750 from federal funds.

State and Local Government Contacts

Health Care Policy and Financing