

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

REREVISED

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

LLS NO. 24-0735.01 Chelsea Princell x4335

SENATE BILL 24-110

SENATE SPONSORSHIP

Rodriguez and Kirkmeyer, Buckner, Ginal, Gonzales, Kolker, Priola, Roberts, Will

HOUSE SPONSORSHIP

Amabile and Sirota, Bacon, Bird, Boesenecker, Brown, Clifford, Epps, Froelich, Garcia, Hamrick, Hernandez, Jodeh, Kipp, Lieder, Lindsay, Mabrey, Rutinel, Snyder, Titone, Vigil, Young

Health & Human Services
Appropriations

Health & Human Services
Appropriations

HOUSE
3rd Reading Unamended
May 5, 2024

HOUSE
Amended 2nd Reading
May 4, 2024

A BILL FOR AN ACT

101 **CONCERNING PROHIBITING PRIOR AUTHORIZATION FOR**
102 **ANTIPSYCHOTIC PRESCRIPTION DRUGS USED TO TREAT A**
103 **MENTAL HEALTH CONDITION, AND, IN CONNECTION THEREWITH,**
104 **MAKING AN APPROPRIATION.**

SENATE
3rd Reading Unamended
April 24, 2024

SENATE
Amended 2nd Reading
April 23, 2024

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 prohibits the department of health care policy and financing from requiring prior authorization for an antipsychotic prescription drug used to treat a mental health disorder or mental health

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.

condition.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that:

4 (a) Nearly a quarter million Coloradan adults live with a mental
5 health disorder or mental health condition like schizophrenia or bipolar
6 disorder, yet less than half of the adult population in the state of Colorado
7 receives appropriate treatment and care;

8 (b) Access to appropriate treatment, including prescription drugs,
9 leads to better outcomes for individuals living with serious mental health
10 disorders;

11 (c) Individuals living with schizophrenia who are subject to
12 formulary restrictions are more likely to be hospitalized and incur 23%
13 higher inpatient costs compared to individuals living with schizophrenia
14 who are not subject to inpatient costs. Similar effects are observed for
15 individuals living with bipolar disorder.

16 (d) Prior authorization requirements for antipsychotic prescription
17 drugs are associated with a 22% increase in the likelihood of
18 imprisonment; and

19 (e) Policies that have formulary restrictions, including prior
20 authorization, step therapy protocols, and fail first requirements, may
21 diminish access to necessary prescription drugs and ultimately result in
22 significant human, economic, and social costs.

23 (2) Therefore, the general assembly declares that access to
24 antipsychotic prescription drugs to treat mental health disorders or mental
25 health conditions must be available without excessive access restrictions

1 for Coloradans receiving care through the state medical assistance
2 program.

3 **SECTION 2.** In Colorado Revised Statutes, **add 25.5-5-517** as
4 follows:

5 **25.5-5-517. Prescription drugs for treating mental health**
6 **disorders or conditions - prior authorization - rules - definitions.**

7 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
8 REQUIRES:

9 (a) "MENTAL HEALTH DISORDER OR MENTAL HEALTH CONDITION"
10 REFERS TO THE MENTAL HEALTH DISORDERS DESCRIBED IN THE MOST
11 RECENT EDITION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF
12 MENTAL DISORDERS.

13 (b) "PRESCRIPTION DRUG" HAS THE SAME MEANING AS SET FORTH
14 IN SECTION 12-280-103.

15 (c) "UNSUCCESSFULLY TREATED" REFERS TO THE CLINICALLY
16 APPROPRIATE GUIDELINES USED TO DETERMINE A PATIENT'S FAILURE ON
17 A MEDICATION AND MAY INCLUDE A LACK OF EFFICACY DURING A
18 SIX-WEEK MEDICATION TRIAL, AN ALLERGIC REACTION, INTOLERABLE SIDE
19 EFFECTS, SIGNIFICANT DRUG-TO-DRUG INTERACTIONS, OR A KNOWN
20 INTERACTING GENETIC POLYMORPHISM THAT PREVENTS SAFE PREFERRED
21 MEDICATION DOSING AS ATTESTED TO BY THE PROVIDER.

22 (2) THE STATE DEPARTMENT SHALL NOT REQUIRE AN ADULT TO BE
23 PRESCRIBED AN ANTIPSYCHOTIC PRESCRIPTION DRUG THAT IS INCLUDED
24 ON THE PREFERRED DRUG LIST AND USED TO TREAT A MENTAL HEALTH
25 DISORDER OR MENTAL HEALTH CONDITION, AS INDICATED ON FEDERALLY
26 APPROVED LABELS, IF:

27 (a) DURING THE PRECEDING THREE HUNDRED SIXTY-FIVE DAYS,

1 THE ADULT WAS PRESCRIBED AND UNSUCCESSFULLY TREATED WITH AN
2 ANTIPSYCHOTIC PRESCRIPTION DRUG THAT IS INCLUDED ON THE
3 PREFERRED DRUG LIST AND USED TO TREAT A MENTAL HEALTH DISORDER
4 OR MENTAL HEALTH CONDITION AND FOR WHICH A SINGLE CLAIM IS PAID;
5 OR

6 (b) THE ADULT IS STABLE ON AN ANTIPSYCHOTIC DRUG USED TO
7 TREAT A MENTAL HEALTH DISORDER OR MENTAL HEALTH CONDITION THAT
8 IT NOT INCLUDED ON THE PREFERRED DRUG LIST.

9 (3) THIS SECTION APPLIES TO A FEE-FOR-SERVICE MEDICAL
10 ASSISTANCE PLAN AND A HEALTH MAINTENANCE ORGANIZATION THAT HAS
11 A CONTRACT WITH THE STATE DEPARTMENT AND PROVIDES COVERAGE FOR
12 PRESCRIPTION DRUGS.

13 (4) THIS SECTION DOES NOT PROHIBIT THE STATE DEPARTMENT
14 FROM CONTRACTING WITH A MANAGED CARE ORGANIZATION FOR
15 PHARMACEUTICAL SERVICES OFFERED UNDER THE STATE MEDICAL
16 ASSISTANCE PROGRAM PURSUANT TO THIS ARTICLE 5 AND ARTICLES 4 AND
17 6 OF THIS TITLE 25.5, IF THE CONTRACT COMPLIES WITH THIS SECTION.

18 (5) THIS SECTION DOES NOT PROHIBIT OR DISCOURAGE THE USE OF
19 A GENERIC DRUG.

20 (6) THIS SECTION DOES NOT PREVENT THE STATE DEPARTMENT
21 FROM PERFORMING A DRUG UTILIZATION REVIEW THAT IS NECESSARY FOR
22 PATIENT SAFETY OR TO ENSURE THE PRESCRIBED USE IS FOR A MEDICALLY
23 ACCEPTED INDICATION, AS REQUIRED BY SECTION 1927 OF THE FEDERAL
24 "SOCIAL SECURITY ACT OF 1935".

25 (7) THIS SECTION DOES NOT PREVENT THE STATE DEPARTMENT
26 FROM REQUIRING THE PRESCRIBING PROVIDER TO ELECTRONICALLY
27 ATTEST THAT THE ADULT MEETS THE REQUIREMENTS OF SUBSECTION

1 (2)(a) OR (2)(b) OF THIS SECTION PRIOR TO PROVIDING COVERAGE FOR AN
2 ANTIPSYCHOTIC DRUG USED TO TREAT A MENTAL HEALTH DISORDER OR
3 MENTAL HEALTH CONDITION THAT IS NOT INCLUDED ON THE PREFERRED
4 DRUGLIST. THE ATTESTATION MUST BE AUTOMATICALLY PROCESSED AND
5 MUST AUTOMATICALLY OVERRIDE THE PREFERRED DRUG COVERAGE
6 REQUIREMENT UPON THE ATTESTATION BEING MADE.

7 **SECTION 3. Appropriation.** (1) For the 2024-25 state fiscal
8 year, \$1,092,134 is appropriated to the department of health care policy
9 and financing. This appropriation consists of \$888,555 from the general
10 fund, which is subject to the "(M)" notation as defined in the annual
11 general appropriation act for the same fiscal year, and \$203,579 from the
12 healthcare affordability and sustainability fee cash fund created in section
13 25.5-4-402.4 (5)(a), C.R.S. To implement this act, the department may
14 use this appropriation for medical and long-term care services for
15 Medicaid eligible individuals.

16 (2) For the 2024-25 state fiscal year, the general assembly
17 anticipates that the department of health care policy and financing will
18 receive \$2,295,189 in federal funds for medical and long-term care
19 services for Medicaid eligible individuals to implement this act. The
20 appropriation in subsection (1) of this section is based on the assumption
21 that the department will receive this amount of federal funds.

22 **SECTION 4. Safety clause.** The general assembly finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, or safety or for appropriations for
25 the support and maintenance of the departments of the state and state
26 institutions.