SB 24-110

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 24-0735	**Date:**	February 23, 2024
Prime Sponsors:	Sen. Rodriguez; Kirkmeyer	**Bill Status:**	Senate Health & Human Services
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Bill Topic: **MEDICAID PRIOR AUTHORIZATION PROHIBITION**

Summary of Fiscal Impact:

☐ State Revenue ☐ State Transfer ☐ Local Government
☒ State Expenditure ☐ TABOR Refund ☐ Statutory Public Entity

The bill prohibits the Department of Health Care Policy and Financing from imposing prior authorization requirements on antipsychotic drugs under select circumstances. The bill increases state expenditures on an ongoing basis.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of $11.3 million to the Department of Health Care Policy and Financing

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

Table 1
State Fiscal Impacts Under SB 24-110

		Budget Year FY 2024-25	Out Year FY 2025-26
Revenue		-	-
Expenditures	General Fund	$2,953,097	$3,243,301
	Cash Funds	$676,590	$743,080
	Federal Funds	$7,628,018	$8,357,692
	Total Expenditures	**$11,257,705**	**$12,344,073**
Transfers		-	-
Other Budget Impacts	General Fund Reserve	$442,965	$486,495

Summary of Legislation

The bill prohibits the Department of Health Care Policy and Financing (HCPF) from imposing prior authorization requirements (PARs) on antipsychotic drugs if the patient was prescribed and unsuccessfully treated with an antipsychotic drug that was on the preferred drug list, within the last year.

Background and Assumptions

HCPF has negotiated supplemental rebate agreements with drug manufactures under which manufacturers provide supplemental rebates to ensure that their drugs are placed on the state's preferred drug list. Drugs that are on the preferred drug list are not subject to PARs unlike their non-preferred competitors, resulting in a shift in utilization to these preferred drugs. This arrangement allows states to maximize supplemental rebates collected from drug manufacturers.

Through their PARs HCPF requires clients to fail on two preferred antipsychotic drugs before receiving coverage for a non-preferred drug unless they are already stable on a non-preferred drug. Failure is defined as lack of efficacy with a 6-week trial, allergy, intolerable side effects, significant drug to drug interactions, or known interacting genetic polymorphism that prevents safe preferred product dosing as attested by the provider.

The fiscal note assumes that "unsuccessfully treated" is a lower standard than failure and that HCPF will be required to cover non-preferred antipsychotics for any client who has paid a drug claim for a preferred antipsychotic drug within the past year.

State Expenditures

The bill increases expenditures in HCPF by a $11.3 million in FY 2023-24 and $12.3 million in FY 2024-25, paid from the General Fund, the Healthcare Affordability and Sustainability Cash Fund, and federal funds. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under SB 24-110

	FY 2024-25	FY 2025-26
Department of Health Care Policy and Financing		
Prescription Drug Costs	$7,059,780	$7,741,049
Foregone Rebates	$4,197,925	$4,603,024
Total Cost	**$11,257,705**	**$12,344,073**
General Fund	*$2,953,097*	*$3,243,301*
Cash Funds	*$676,590*	*$743,080*
Federal Funds	*$7,628,018*	*$8,357,692*

[1] *Centrally appropriated costs are not included in the bill's appropriation.*

Department of Health Care Policy and Financing. Expenditures in HCPF include increased prescription drug costs and foregone supplemental rebates beginning in FY 2024-25, as described below. The prescription drug costs are assumed to grow by 9.65 percent per year based on current acute care growth rate trends, and these drugs receive about a 70 percent federal funding match.

- **Prescription drug costs.** The fiscal note assumes that Medicaid members will increase utilization of antipsychotic drugs by at least the amount of denied claims due to PARs. There may be a population who did not submit claims with the understanding that they would be denied. This and any costs savings associated with increased drug utilization will be accounted for through the normal budget process once data is available.
- **Foregone rebates.** It is assumed that the elimination of the PARs in the bill will result in the loss of supplemental rebates, as these rebates are offered under the expectation that the preferred drug list will increase utilization This shift is estimated to increase costs by the amounts shown in Table 2.
- **System changes.** HCPF could develop a system to check whether a client has paid a drug claim for a preferred antipsychotic drug within the past year, whether or not the claim was filed through Medicaid. However, because "unsuccessfully treated" is assumed to be a much lower standard than "failed" (see assumptions section), this is not expected to restore the incentive power of the preferred drug list and is thus expected to cost more money than it saves. As a result, the fiscal note assumes that HCPF will exercise their discretion to remove all coverage distinctions between preferred and non-preferred antipsychotic drugs.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2024-25, the bill requires an appropriation of $11,257,705 to the Department of Health Care Policy and Financing, which includes:

- $2,953,097 General Fund,
- $676,590 from the Healthcare Affordability and Sustainability Cash Fund, and
- $7,628,018 federal funds.

State and Local Government Contacts

Health Care Policy and Financing	Human Services	Information Technology
Personnel	Regulatory Agencies	

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the General Assembly website.