

CHAPTER 363

HEALTH CARE POLICY AND FINANCING

SENATE BILL 24-110

BY SENATOR(S) Rodriguez and Kirkmeyer, Buckner, Ginal, Gonzales, Kolker, Priola, Roberts, Will;
also REPRESENTATIVE(S) Amabile and Sirota, Bacon, Bird, Boesenecker, Brown, Clifford, Epps, Froelich, Garcia, Hamrick,
Hernandez, Jodeh, Kipp, Lieder, Lindsay, Mabrey, Rutinel, Snyder, Titone, Vigil, Young.

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

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

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

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

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

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

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

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

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(2) Therefore, the general assembly declares that access to antipsychotic prescription drugs to treat mental health disorders or mental health conditions must be available without excessive access restrictions for Coloradans receiving care through the state medical assistance program.

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

25.5-5-517. Prescription drugs for treating mental health disorders or conditions - prior authorization - rules - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

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

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

(a) DURING THE PRECEDING THREE HUNDRED SIXTY-FIVE DAYS, THE ADULT WAS PRESCRIBED AND UNSUCCESSFULLY TREATED WITH AN ANTIPSYCHOTIC PRESCRIPTION DRUG THAT IS INCLUDED ON THE PREFERRED DRUG LIST AND USED TO TREAT A MENTAL HEALTH DISORDER OR MENTAL HEALTH CONDITION AND FOR WHICH A SINGLE CLAIM IS PAID; OR

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

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

(4) THIS SECTION DOES NOT PROHIBIT THE STATE DEPARTMENT FROM CONTRACTING WITH A MANAGED CARE ORGANIZATION FOR PHARMACEUTICAL

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SERVICES OFFERED UNDER THE STATE MEDICAL ASSISTANCE PROGRAM PURSUANT TO THIS ARTICLE 5 AND ARTICLES 4 AND 6 OF THIS TITLE 25.5, IF THE CONTRACT COMPLIES WITH THIS SECTION.

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

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

(7) THIS SECTION DOES NOT PREVENT THE STATE DEPARTMENT FROM REQUIRING THE PRESCRIBING PROVIDER TO ELECTRONICALLY ATTEST THAT THE ADULT MEETS THE REQUIREMENTS OF SUBSECTION (2)(a) OR (2)(b) OF THIS SECTION PRIOR TO PROVIDING COVERAGE FOR AN ANTIPSYCHOTIC DRUG USED TO TREAT A MENTAL HEALTH DISORDER OR MENTAL HEALTH CONDITION THAT IS NOT INCLUDED ON THE PREFERRED DRUG LIST. THE ATTESTATION MUST BE AUTOMATICALLY PROCESSED AND MUST AUTOMATICALLY OVERRIDE THE PREFERRED DRUG COVERAGE REQUIREMENT UPON THE ATTESTATION BEING MADE.

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

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

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

Approved: June 3, 2024