

First Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

DRAFT  
9.8.22

BILL 3

LLS NO. 23-0160.01 Chelsea Princell x4335

INTERIM COMMITTEE BILL

---

**Legislative Oversight Committee Concerning the Treatment of Persons  
with Behavioral Health Disorders in the Criminal and Juvenile Justice  
Systems**

---

**BILL TOPIC: "Medicaid Preauthorization Exemption"**

**DEADLINES: File by: 9/8/2022**

---

**A BILL FOR AN ACT**

101 **CONCERNING PRIOR AUTHORIZATION EXEMPTION FOR MEDICAID**  
102 **COVERAGE OF MEDICATIONS TREATING SERIOUS MENTAL**  
103 **ILLNESS.**

---

**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/>.)*

**Legislative Oversight Committee Concerning the Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems.** The bill prohibits the department of health care policy and financing from imposing prior authorization, step therapy, and fail first requirements for medicaid coverage of a prescription drug,

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

as indicated on federally approved labels, to treat serious mental health disorders.

---

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

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

4 (a) It is estimated that nearly a quarter million Coloradans are  
5 living with serious mental health disorders like schizophrenia or bipolar  
6 disorder, yet less than half of the adult population in the state of Colorado  
7 receives appropriate care.

8 (b) It is well documented that access to appropriate treatment,  
9 including medication, leads to better outcomes for individuals living with  
10 serious mental health disorders.

11 (c) Individuals living with schizophrenia subject to formulary  
12 restrictions are more likely to be hospitalized, with twenty-three percent  
13 higher inpatient costs. Similar effects are observed for patients with  
14 bipolar disorder. Prior authorization requirements for atypical  
15 antipsychotics are associated with a twenty-two percent increase in the  
16 likelihood of imprisonment.

17 (d) Policies that restrict access to medications, including prior  
18 authorization, step therapy protocol, and fail first requirements may  
19 diminish access to necessary medications and ultimately result in  
20 significant human, economic, and social costs.

21 (2) Therefore, the general assembly declares that access to  
22 medications for the treatment of serious mental health disorders is  
23 available without access restrictions for Coloradans receiving care  
24 through the medical assistance program.

25 **SECTION 2.** In Colorado Revised Statutes, **add** 25.5-5-514 as

1 follows:

2 **25.5-5-514. Prior authorization exemption for medications**  
3 **treating serious mental health disorders - definitions.** (1) AS USED IN

4 THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

5 (a) "FAIL FIRST" MEANS A METHOD OF DRUG PLAN FORMULARY  
6 CONTROL IN WHICH A PATIENT MUST TRY A LESS EXPENSIVE DRUG BEFORE  
7 BEING PRESCRIBED A MORE EXPENSIVE DRUG USED TO TREAT THE SAME  
8 IMPAIRMENT.

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

11 (c) "PRIOR AUTHORIZATION" HAS THE SAME MEANING AS SET  
12 FORTH IN SECTION 10-16-112.5.

13 (d) "SERIOUS MENTAL HEALTH DISORDER" MEANS A MENTAL  
14 HEALTH DISORDER, AS DEFINED IN THE MOST RECENT EDITION OF THE  
15 DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS  
16 PUBLISHED BY THE AMERICAN PSYCHIATRIC ASSOCIATION, THAT RESULTS  
17 IN SERIOUS FUNCTIONAL IMPAIRMENT THAT SUBSTANTIALLY INTERFERES  
18 WITH OR LIMITS ONE OR MORE MAJOR LIFE ACTIVITIES.

19 (e) "STEP THERAPY" HAS THE SAME MEANING AS SET FORTH IN  
20 SECTION 10-16-145.

21 (2) THE STATE DEPARTMENT SHALL NOT IMPOSE ANY PRIOR  
22 AUTHORIZATION, FAIL FIRST, OR STEP THERAPY REQUIREMENTS FOR ANY  
23 PRESCRIPTION DRUG, AS INDICATED ON FEDERALLY APPROVED LABELS, TO  
24 TREAT SERIOUS MENTAL HEALTH DISORDERS.

25 (3) THIS SECTION APPLIES TO DRUGS BEING PROVIDED UNDER  
26 CONTRACT BETWEEN THE STATE DEPARTMENT AND A HEALTH  
27 MAINTENANCE ORGANIZATION.

1           (4) THIS SECTION DOES NOT PROHIBIT THE STATE DEPARTMENT  
2 FROM CONTRACTING WITH A MANAGED CARE ORGANIZATION FOR  
3 PHARMACEUTICAL SERVICES OFFERED UNDER THE MEDICAL ASSISTANCE  
4 PROGRAM ADMINISTERED PURSUANT TO THIS TITLE 25.5 IF THE CONTRACT  
5 COMPLIES WITH THIS SECTION.

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