Legislative Analysis

Phone: (517) 373-8080
http://www.house.mi.gov/hfa

Analysis available at
http://www.legislature.mi.gov

PRIOR AUTHORIZATION

Senate Bill 412 (proposed substitute H-1)
Sponsor: Sen. Curtis Hertel, Jr.
House Committee: Health Policy
Senate Committee: Health and Human Services
Complete to 1-26-22

SUMMARY:

Senate Bill 412 would amend the Social Welfare Act to add certain drugs to the list of drugs exempt from ***prior authorization*** requirements under Medicaid.

> ***Prior authorization*** means a process implemented by the Department of Health and Human Services (DHHS) that conditions, delays, or denies the delivery of particular pharmaceutical services to Medicaid beneficiaries upon application of predetermined criteria by DHHS or DHHS's agent for those pharmaceutical services covered by DHHS on a fee-for-service basis or according to a contract for those services. The process may require a prescriber to verify with DHHS or DHHS's agent that the proposed medical use of a prescription drug being prescribed for a patient meets the predetermined criteria for a prescription drug that is otherwise covered under this act or require a prescriber to obtain authorization from DHHS or DHHS's agent before prescribing or dispensing a prescription drug that is not included on a preferred drug list or that is subject to special access or reimbursement restrictions. (The bill would merely update the department's name to DHHS and make other technical changes to the definition.)

The act provides that DHHS cannot require prior authorization for specified single source brand name, generic equivalent of a multiple source brand name, or other prescription drugs. Among those included are certain central nervous system drugs and prescription drugs recognized as effective in treatment of conditions specified in the most recent Diagnostic and Statistical Manual of Mental Disorders.

The bill would add to that list prescription drugs that are recognized in a generally accepted standard medical reference for the treatment of, and that are being prescribed to the patient for the treatment of, opioid withdrawal symptom management.

Additionally, the "generally accepted" and "prescribed for" requirements currently apply to prescription drugs used for treating human immunodeficiency virus (HIV) or the complications of acquired immunodeficiency syndrome (AIDS). The bill would add that the exemption also applies to prescription drugs recognized to prevent acquisition of HIV or complications of HIV.

Current law states that the prior authorization exemptions do *not* apply to drugs being provided under a contract between DHHS and a health maintenance organization. The bill would instead provide that the exemptions *would* apply in those instances.

The bill also provides that the prior authorization provisions would not prohibit DHHS from contracting with a managed care organization for pharmaceutical services offered under the medical assistance program administered under the act as long as the contract complies with the prior authorization provisions.

The bill would take effect 90 days after enactment.

MCL 400.109h

FISCAL IMPACT:

Senate Bill 412 would increase state Medicaid costs by an indeterminate, but likely moderate, amount as a result of expanding the number of drug types for which the Social Welfare Act would prohibit the use of prior authorization as a condition of the drug being prescribed to a Medicaid recipient. The FY 2021-22 DHHS boilerplate section 1875 includes most of the provisions of this bill, as it relates to requiring Medicaid health plans to follow these provisions, except for the prohibition on Medicaid health plans from using prior authorization on cancer drugs, which would increase state Medicaid costs. Additionally, the bill would add prescription drugs that prevent the acquisition of HIV and prescription drugs for opioid withdrawal symptom management to the list of prohibited drug types, both of which currently have drugs that DHHS first requires prior authorization to prescribe. The federal Medicaid reimbursement rate (known as FMAP) for FY 2021-22 is 65.48%, meaning federal revenues will support 65.48% of any gross cost increases to the state Medicaid program.

The bill would have no fiscal impact on local units of government

Legislative Analyst: Jenny McInerney
Fiscal Analyst: Kevin Koorstra