Legislative Analysis

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PRIOR AUTHORIZATION

Senate Bill 412 (S-2) as passed by the Senate
Sponsor: Sen. Curtis Hertel, Jr.
House Committee: Health Policy
Senate Committee: Health and Human Services
Complete to 11-3-21

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*** would mean a determination by the Department of Health and Human Services (DHHS), DHHS's agent, managed care organization contracted with DHHS, or utilization review organization that a requested prescription drug benefit has been reviewed and, based on the information provided, satisfies the requirements for medical necessity and appropriateness. (The change to the definition is described in **Background**, below.)

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

BACKGROUND:

Written testimony submitted to the Senate Health and Human Services committee indicates that the change to the prior authorization definition would remove a barrier to obtaining non-opioid medication to treat opioid withdrawal symptoms and to other treatments such as those that treat epilepsy.

The bill sponsor also testified that the changes to the prior authorization definition would mirror the definition introduced in Senate Bill 247,[1] which was reported by the Senate Health and Human Services committee and passed by the full Senate.

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

[1] http://www.legislature.mi.gov/(S(1yzdjqtxvp20rca2kncob0hd))/mileg.aspx?page=getObject&objectName=2021-SB-0247