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Senate Bill 412 (as enacted)  
Sponsor: Senator Curtis Hertel, Jr.  
Senate Committee: Health Policy and Human Services  
House Committee: Health Policy

**PUBLIC ACT 19 of 2022**

Date Completed: 12-12-22

**CONTENT**

**The bill would amend the Social Welfare Act to do the following:**

- **Prohibit the Department of Health and Human Services (DHHS) from requiring prior authorization for certain single source brand name, generic equivalent of a multiple source brand name, or other prescription drugs to prevent the acquisition of or to treat human immunodeficiency virus (HIV).**
- **Prohibit the DHHS from requiring prior authorization for certain single source brand name, generic equivalent of a multiple source brand name, or other prescription drugs for the opioid withdrawal symptom management.**
- **Specify that Section 109h would apply to drugs being provided under a contract between the DHHS and a health maintenance organization (HMO).**
- **Specify that Section 109h would not prohibit the DHHS from contracting with a managed care organization (MCO) for pharmaceutical services offered under Medicaid as long as the contract complied with Section 109h's provisions.**

The bill took effect on June 8, 2022.

Section 109h of the Act prohibits the DHHS, if it develops a prior authorization process for prescription drugs as part of the pharmaceuticals services offered under the Medical Assistance Program administered under the Act, from requiring prior authorizations for certain single source brand name, generic equivalent of a multiple source brand name, or other prescription drugs, including a prescription drug that is recognized in a generally accepted standard medical reference for the treatment of HIV infections or the complications of HIV or acquired immunodeficiency syndrome (AIDS).

Under the bill, the DHHS may not require prior authorization for single source brand name, generic equivalent of a multiple source brand name, or other prescription drug that is recognized in a generally accepted standard medical reference to prevent acquisition of or to treat HIV infection or complications of HIV or AIDS. The bill also prohibits the DHHS from requiring prior authorization for single source brand name, generic equivalent of a multiple source brand name, or other prescription drug that is recognized in a generally accepted standard medical reference for the treatment of and is being prescribed to a patient for the treatment of opioid withdrawal symptom management.

"Prior authorization" means a process implemented by the DHHS that conditions, delays, or denies the delivery of particular pharmaceutical services to Medical Assistance recipients upon application of predetermined criteria by the Department or its agent for those pharmaceutical

services covered by the Department on a fee-for-service basis or pursuant to a contract for those services. The process may require a prescriber to verify with the DHHS or its 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 the Act or require a prescriber to obtain authorization from the Department or the Department'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.

Previously, Section 109h did not apply to drugs being provided under a contract between the DHHS and an HMO. Instead, under the bill, Section 109h *applies* to drugs being provided under a contract between the DHHS and an HMO.

Additionally, the bill specifies that Section 109h does not prohibit the Department from contracting with an MCO for pharmaceutical services offered under Medicaid as long as the contract complies with the provisions of Section 109h.

MCL 400.190h

Legislative Analyst: Stephen P. Jackson

### **FISCAL IMPACT**

The bill will lead to an increase in costs for the State's Medicaid program due to the expansion of categories of medications exempt from prior authorization in Medicaid. The bill, in large part, codifies in the Public Health Code provisions included in Section 1875 of the DHHS budget; that boilerplate codification will not have any fiscal impact.

However, the bill also adds a new category of medications for exemption from prior authorization: opioid withdrawal symptom management. Exempting any new category of medications from prior authorization in Medicaid will increase access to and demand for the medications for Medicaid clients and likely will increase costs for Medicaid MCOs. As Medicaid MCO capitation rates are required by the Federal government to be actuarially sound, this cost increase will increase Medicaid MCO reimbursement.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.