

**SUBSTITUTE FOR
SENATE BILL NO. 397**

A bill to amend 1939 PA 280, entitled
"The social welfare act,"
by amending section 109h (MCL 400.109h), as amended by 2022 PA 19.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 109h. (1) If the department develops a prior
2 authorization process for prescription drugs as part of the
3 pharmaceutical services offered under the medical assistance
4 program administered under this act, the department shall not
5 require prior authorization for the following single source brand
6 name, generic equivalent of a multiple source brand name, or other
7 prescription drugs:

8 (a) A central nervous system prescription drug that is
9 classified as an anticonvulsant, antidepressant, antipsychotic, or

1 a noncontrolled substance antianxiety drug in a generally accepted
2 standard medical reference.

3 (b) A prescription drug that is cross-indicated for a central
4 nervous system drug exempted under subdivision (a) as documented in
5 a generally accepted standard medical reference.

6 (c) Unless the prescription drug is a controlled substance or
7 the prescription drug is being prescribed to treat a condition that
8 is excluded from coverage under this act, a prescription drug that
9 is recognized in a generally accepted standard medical reference as
10 effective in the treatment of conditions specified in the most
11 recent diagnostic and statistical manual of mental disorders
12 published by the American Psychiatric Association, including
13 substance use disorder. The department or the department's agent
14 shall not deny a request for prior authorization of a controlled
15 substance under this subdivision unless the department or the
16 department's agent determines that the controlled substance or the
17 dosage of the controlled substance being prescribed is not
18 consistent with its licensed indications or with generally accepted
19 medical practice as documented in a standard medical reference.

20 (d) A prescription drug that is recognized in a generally
21 accepted standard medical reference to prevent acquisition of or to
22 treat human immunodeficiency virus infection or complication of the
23 human immunodeficiency virus or acquired immunodeficiency syndrome.

24 (e) A prescription drug that is recognized in a generally
25 accepted standard medical reference for the treatment of and is
26 being prescribed to a patient for the treatment of any of the
27 following:

28 (i) Cancer.

29 (ii) Organ replacement therapy.

1 (iii) Epilepsy or seizure disorder.

2 (iv) Opioid withdrawal symptom management **or opioid use**
3 **disorder. For purposes of this subparagraph, the department shall**
4 **not require a dosage maximum for a prescription drug for the**
5 **treatment of opioid withdrawal symptom management or opioid use**
6 **disorder.**

7 (2) This section applies to drugs being provided under a
8 contract between the department and a health maintenance
9 organization.

10 (3) This section does not prohibit the department from
11 contracting with a managed care organization for pharmaceutical
12 services offered under the medical assistance program administered
13 under this act as long as the contract complies with the provisions
14 of this section.

15 (4) As used in this section:

16 (a) "Controlled substance" means that term as defined in
17 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

18 (b) "Cross-indicated" means a drug that is used for a purpose
19 generally held to be reasonable, appropriate, and within community
20 standards of practice even though the use is not included in the
21 United States Food and Drug Administration's approved labeled
22 indications for that drug.

23 (c) "Prescriber" means that term as defined in section 17708
24 of the public health code, 1978 PA 368, MCL 333.17708.

25 (d) "Prescription" or "prescription drug" means that term as
26 defined in section 17708 of the public health code, 1978 PA 368,
27 MCL 333.17708.

28 (e) "Prior authorization" means a process implemented by the
29 department that conditions, delays, or denies the delivery of

1 particular pharmaceutical services to Medicaid beneficiaries upon
2 application of predetermined criteria by the department or the
3 department's agent for those pharmaceutical services covered by the
4 department on a fee-for-service basis or according to a contract
5 for those services. The process may require a prescriber to verify
6 with the department or the department's agent that the proposed
7 medical use of a prescription drug being prescribed for a patient
8 meets the predetermined criteria for a prescription drug that is
9 otherwise covered under this act or require a prescriber to obtain
10 authorization from the department or the department's agent before
11 prescribing or dispensing a prescription drug that is not included
12 on a preferred drug list or that is subject to special access or
13 reimbursement restrictions.