SENATE BILL NO. 397

June 11, 2025, Introduced by Senators HERTEL and SANTANA and referred to Committee on Health Policy.

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:

Sec. 109h. (1) If the department develops a prior authorization process for prescription drugs as part of the pharmaceutical services offered under the medical assistance program administered under this act, the department shall not require prior authorization for the following single source brand

name, generic equivalent of a multiple source brand name, or other prescription drugs:

(a) A central nervous system prescription drug that is classified as an anticonvulsant, antidepressant, antipsychotic, or a noncontrolled substance antianxiety drug in a generally accepted standard medical reference.

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

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

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

(e) A 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 any of the following:

(*i*) Cancer.

(*ii*) Organ replacement therapy.

(*iii*) Epilepsy or seizure disorder.

(*iv*) Opioid withdrawal symptom management **or opioid use disorder, including, but not limited to, buprenorphine/naloxone tablets that are more than 32 milligrams.**

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

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

(4) As used in this section:

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

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

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

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

(e) "Prior authorization" means a process implemented by the department that conditions, delays, or denies the delivery of particular pharmaceutical services to Medicaid beneficiaries upon application of predetermined criteria by the department or the department's agent for those pharmaceutical services covered by the department on a fee-for-service basis or according to a contract for those services. The process may require a prescriber to verify with the department or the department'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 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.