A bill to amend 1939 PA 280, entitled
"The social welfare act,"
by amending section 109h (MCL 400.109h), as added by 2004 PA 248.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 109h. (1) If the department of community health 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) Human immunodeficiency virus infections or the
complications of the human immunodeficiency virus or acquired immunodeficiency syndrome.

(i) (ii) Cancer.

(ii) (iii) Organ replacement therapy.

(iii) (iv) Epilepsy or seizure disorder.

(iv) Opioid withdrawal symptom management.

(2) This section does not apply 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) (3) 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 which 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 federal food and drug administration's United States Food and Drug Administration's approved labeled indications for that drug.

(c) "Department" means the department of community health.

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

(d) (e) "Prescription" or "prescription drug" means that term as defined in section 17708 of the public health code, 1978 PA 368, MCL 333.17708.
(e) (f) "Prior authorization" means a process implemented by the department of community health 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 pursuant 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. A determination by the department, department's agent, managed care organization contracted with the department, 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.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.