

SUBSTITUTE FOR
SENATE BILL NO. 412

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:

1 Sec. 109h. (1) If the department ~~of community health~~ develops
2 a prior authorization process for prescription drugs as part of the
3 pharmaceutical services offered under the medical assistance
4 program administered under this act, ~~it~~ **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.~~ **Psychiatric**
13 **Association, including substance use disorder.** The department or
14 the department's agent shall not deny a request for prior
15 authorization of a controlled substance under this subdivision
16 unless the department or the department's agent determines that the
17 controlled substance or the dosage of the controlled substance
18 being prescribed is not consistent with its licensed indications or
19 with generally accepted medical practice as documented in a
20 standard medical reference.

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

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

29 ~~(i) Human immunodeficiency virus infections or the~~

1 ~~complications of the human immunodeficiency virus or acquired~~
 2 ~~immunodeficiency syndrome.~~

3 (i) ~~(ii)~~—Cancer.

4 (ii) ~~(iii)~~—Organ replacement therapy.

5 (iii) ~~(iv)~~—Epilepsy or seizure disorder.

6 (iv) **Opioid withdrawal symptom management.**

7 (2) This section ~~does not apply~~ **applies** to drugs being
 8 provided under a contract between the department and a health
 9 maintenance 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) ~~(3)~~—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 ~~which~~ **that** is used for a
 19 purpose generally held to be reasonable, appropriate, and within
 20 community standards of practice even though the use is not included
 21 in the ~~federal food and drug administration's~~ **United States Food**
 22 **and Drug Administration's** approved labeled indications for that
 23 drug.

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

25 (c) ~~(d)~~—"Prescriber" means that term as defined in section
 26 17708 of the public health code, 1978 PA 368, MCL 333.17708.

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

1 **(e)** ~~(f)~~ "Prior authorization" means a ~~process implemented by~~
2 ~~the department of community health that conditions, delays, or~~
3 ~~denies the delivery of particular pharmaceutical services to~~
4 ~~medicaid beneficiaries upon application of predetermined criteria~~
5 ~~by the department or the department's agent for those~~
6 ~~pharmaceutical services covered by the department on a fee-for-~~
7 ~~service basis or pursuant to a contract for those services. The~~
8 ~~process may require a prescriber to verify with the department or~~
9 ~~the department's agent that the proposed medical use of a~~
10 ~~prescription drug being prescribed for a patient meets the~~
11 ~~predetermined criteria for a prescription drug that is otherwise~~
12 ~~covered under this act or require a prescriber to obtain~~
13 ~~authorization from the department or the department's agent before~~
14 ~~prescribing or dispensing a prescription drug that is not included~~
15 ~~on a preferred drug list or that is subject to special access or~~
16 ~~reimbursement restrictions.~~ **a determination by the department,**
17 **department's agent, managed care organization contracted with the**
18 **department, or utilization review organization that a requested**
19 **prescription drug benefit has been reviewed and, based on the**
20 **information provided, satisfies the requirements for medical**
21 **necessity and appropriateness.**

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