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BILL ANALYSIS

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Senate Bill 412 (as introduced 5-4-21)
Sponsor: Senator Curtis Hertel, Jr.
Committee: Health Policy and Human Services

Date Completed: 5-27-21

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 treatment of tardive dyskinesia.**
- **Specify that Section 109h would apply to drugs being provided under a contract between the DHHS and a health maintenance organization (HMO).**

The bill would take effect 90 days after its enactment.

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 could 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 would prohibit 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 tardive dyskinesia.

"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.

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

MCL 400.190h

BACKGROUND

Tardive dyskinesia is a movement disorder generally caused by the long-term use of neuroleptic drugs (i.e., antipsychotics). Neuroleptic drugs primarily are used in the treatment of schizophrenia and bipolar disorder to manage delusions, paranoia, or hallucinations. Tardive dyskinesia is characterized by repetitive and involuntary movements, typically grimacing, blinking, lip smacking or puckering, and/or other rapid and involuntary movements of the body.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would 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, would codify in the Public Health Code provisions included in Section 1875 of the Department of Health and Human Services budget; that boilerplate codification would not have any fiscal impact.

However, the bill also would add a new category for exemption from prior authorization: prescription medications used for treatment of tardive dyskinesia. A cursory review indicates that the two most commonly used medications for the treatment of tardive dyskinesia, Austedo and Ingrezza, are relatively expensive per unit, but total sales information for the medications implies that costs to Michigan Medicaid for the medications are not more than a few million dollars. Exempting any new category of medications from prior authorization in Medicaid would increase access to and demand for the medications for Medicaid clients and likely would increase costs for Medicaid managed care organizations (MCOs). As Medicaid MCO capitation rates are required by the Federal government to be actuarially sound, this cost increase would increase Medicaid MCO reimbursement, albeit by what would appear to be a relatively minor amount given the rough estimate of total costs for these medications.

Fiscal Analyst: Steve Angelotti

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