

SUBJECT: Prohibiting prior authorization for antipsychotic drugs under Medicaid

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Frank, Hinojosa, Hull, Meza, Neave, Noble, Rose, Shaheen

0 nays

1 absent — Klick

WITNESSES: For — Phillip Balfanz, Federation of Texas Psychiatry; Greg Hansch, National Alliance on Mental Illness (NAMI) Texas; (*Registered, but did not testify*: Dennis Borel, Coalition of Texans with Disabilities; Sebastien Laroche, Methodist Healthcare Ministries of South Texas, Inc.; Alison Mohr Boleware, National Association of Social Workers-Texas Chapter; Julia Hatcher, Texas Association of Family Defense Attorneys; Patricia Shipton, Texas Healthcare and Biosciences Institute; Cesar Lopez, Texas Hospital Association; Dan Finch, Texas Medical Association; Kevin Stewart, Texas Nurses Association and Texas Psychological Association; Thomas Parkinson)

Against — None

On — Laurie Vanhose, Texas Association of Health Plans; (*Registered, but did not testify*: Ryan Van Ramshorst, Health and Human Services Commission)

BACKGROUND: Government Code sec. 531.073(a) establishes that the executive commissioner of the Health and Human Services Commission (HHSC), in the rules and standards governing the Medicaid vendor drug program and the child health plan program, must require prior authorization for the reimbursement of a drug that is not included in the appropriate preferred drug list adopted by HHSC for those programs, except for any drug exempted from prior authorization requirements by federal law or for any antiretroviral drug used to treat HIV or AIDS.

Concerns have been raised that requiring prior authorization for antipsychotic drugs for adult patients with serious mental illness is burdensome to physicians and providers and can potentially prevent patients with serious mental illness from receiving essential medications.

DIGEST:

CSHB 2822 would prohibit the executive commissioner of the Health and Human Services Commission (HHSC), in the rules and standards governing the vendor drug program, from requiring prior authorization for a nonpreferred antipsychotic drug that was included on the vendor drug formulary and prescribed to an adult patient if :

- during the preceding year, the patient was prescribed and unsuccessfully treated with a 14-day treatment trial of and antipsychotic drug that was included on the appropriate preferred drug list and for which a single claim was paid;
- the patient had previously been prescribed and obtained prior authorization for the nonpreferred antipsychotic drug and the prescription was for the purpose of drug dosage titration; or
- subject to applicable regulations, the patient had previously been prescribed and obtained prior authorization for the nonpreferred antipsychotic drug and the prescription modified the dosage, dosage frequency, or both, of the drug as part of the same treatment for which the drug was previously prescribed.

The executive commissioner, in the rules and standards governing the vendor drug program and as part of the requirements under a contract with a Medicaid managed care organization (MCO), would have to require, to the maximum extent possible as specified by the bill, automation of clinical prior authorization for each drug in the antipsychotic drug class.

The executive commissioner also would have to ensure that at the time a nonpreferred or clinical prior authorization edit was denied, a pharmacist was immediately provided a point-of-sale return message clearly specifying certain information necessary to submit a prior authorization request, and instructing the pharmacist to dispense, subject to applicable law, a 72-hour supply of the prescription.

The bill would apply the same prohibition on requiring prior authorization for a nonpreferred antipsychotic drug to an outpatient pharmacy benefit plan maintained by an MCO.

The bill's prohibition would not affect:

- the authority of a pharmacist to dispense the generic equivalent or interchangeable biological product of a prescription drug in accordance with applicable law;
- any drug utilization review requirements prescribed by state or federal law;
- or clinical prior authorization edits to preferred and nonpreferred antipsychotic drug prescriptions.

HHSC would be required to seek to amend existing contracts with MCOs to comply with the bill's provisions before the effective date, but to the extent of a conflict, the contract provisions entered into before the effective date would prevail.

The bill would take effect September 1, 2021, and would apply to contracts between HHSC and an MCO entered into or renewed on or after that date.