

BILL ANALYSIS

Senate Research Center
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H.B. 2822
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 2822 seeks to streamline the prior authorization process in Medicaid to reduce barriers to care and decreases adverse events for patients experiencing certain serious and persistent mental illnesses (SMI), including schizophrenia, schizo-affective disorders, bipolar disorders, major depressive disorders, paranoia, and other psychotic disorders.

Successful management of SMI symptoms typically depends on reliable access to prescribed medications, which can help maintain a stable home life and employment and avoid hospitalization or incarceration. Well-managed medication reduces the symptoms of SMI and allows individuals to focus on recovery, which improves quality of life and reduces costs of care.

However, concerned parties contend that certain regulations in the Texas Medicaid program limit access to these medications while producing minimal savings to the system. Moreover, individuals with SMI who incur access challenges face a considerably higher number of adverse events that dramatically increase state expenditures and reduce quality of life. These adverse events include emergency room visits, hospitalization, homelessness, suicidal ideation, and incarceration.

H.B. 2822 addresses these problems within the current structure of the Medicaid PA policies, chiefly by automating and streamlining the Medicaid prior authorization process. The bill only applies to adults with SMI, for example bipolar disorder or schizophrenia. Under this bill, managed care organizations (MCOs) will update the PBM pharmacy claims update system to recognize that a patient has failed a 14-day trial of a preferred antipsychotic within the previous year, after which the system will automatically approve a non-preferred prescription. The system will also recognize when dosage levels are being changed for titration, provided they are below FDA maximum levels. The clinical edits for safety are clearly preserved. Importantly, the MCOs agreed to update their systems to notify a pharmacist at the point of sale about how to resolve a prior authorization and to dispense a 72-hour supply for continuity of care. In doing so, H.B. 2822 will result in improved health outcomes, significant savings to the state budget, and improved quality of life.

H.B. 2822 amends current law relating to the availability of antipsychotic prescription drugs under the vendor drug program and Medicaid managed care.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is modified in SECTION 1 (Section 531.073, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 531.073, Government Code, by amending Subsection (a) and adding Subsections (a-3), (a-4), and (a-5) as follows:

- (a) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner), in the rules and standards governing the Medicaid vendor drug program and the child health plan program, to require prior authorization for the

reimbursement of a drug that is not included in the appropriate preferred drug list adopted under Section 531.072 (Preferred Drug Lists), except for any drug exempted from prior authorization requirements by federal law and except as provided by Subsections (a-3) and (j) (relating to prohibiting the executive commissioner from requiring prior authorization of certain drugs), rather than except as provided by Subsection (j).

(a-3) Prohibits the executive commissioner, in the rules and standards governing the vendor drug program, from requiring prior authorization for a nonpreferred antipsychotic drug that is included on the vendor drug formulary and prescribed to an adult patient if:

(1) during the preceding year, the patient was prescribed and unsuccessfully treated with a 14-day treatment trial of an antipsychotic drug that is included on the appropriate preferred drug list adopted under Section 531.072 and for which a single claim was paid;

(2) the patient has previously been prescribed and obtained prior authorization for the nonpreferred antipsychotic drug and the prescription is for the purpose of drug dosage titration; or

(3) subject to federal law on maximum dosage limits and Health and Human Services Commission (HHSC) rules on drug quantity limits, the patient has previously been prescribed and obtained prior authorization for the nonpreferred antipsychotic drug and the prescription modifies the dosage, dosage frequency, or both, of the drug as part of the same treatment for which the drug was previously prescribed.

(a-4) Provides that Subsection (a-3) does not affect:

(1) the authority of a pharmacist to dispense the generic equivalent or interchangeable biological product of a prescription drug in accordance with Subchapter A (Prescription and Substitution Requirements), Chapter 562 (Practice by License Holder), Occupations Code;

(2) any drug utilization review requirements prescribed by state or federal law; or

(3) clinical prior authorization edits to preferred and nonpreferred antipsychotic drug prescriptions.

(a-5) Requires the executive commissioner, in the rules and standards governing the vendor drug program and as part of the requirements under a contract between HHSC and a Medicaid managed care organization, to:

(1) require, to the maximum extent possible based on a pharmacy benefit manager's claim system, automation of clinical prior authorization for each drug in the antipsychotic drug class; and

(2) ensure that, at the time a nonpreferred or clinical prior authorization edit is denied, a pharmacist is immediately provided a point-of-sale return message that clearly specifies the contact and other information necessary for the pharmacist to submit a prior authorization request for the prescription and that instructs the pharmacist to dispense, only if clinically appropriate under federal or state law, a 72-hour supply of the prescription.

SECTION 2. Amends Section 533.005(a), Government Code, as follows:

(a) Requires that a contract between a managed care organization and HHSC for the organization to provide health care services to recipients contain:

(1)-(22) makes no changes to these subdivisions;

(23) subject to Subsection (a-1) (relating to providing that the requirements imposed on certain subsections do not apply, and are prohibited from being enforced, on and after August 31, 2023), a requirement that the managed care organization develop, implement, and maintain an outpatient pharmacy benefit plan for its enrolled recipients:

(A)-(C-1) makes no changes to these paragraphs;

(C-2) that does not require prior authorization for a nonpreferred antipsychotic drug prescribed to an adult recipient if the requirements of Section 531.073(a-3) are met; and

(D)-(L) makes no changes to these paragraphs; and

(24)-(26) makes no changes to these subdivisions.

SECTION 3. (a) Requires HHSC, in a contract between HHSC and a managed care organization under Chapter 533 (Medicaid Managed Care Program), Government Code, that is entered into or renewed on or after the effective date of this Act, to require that the managed care organization comply with Sections 531.073(a-5) and 533.005(a)(23)(C-2), Government Code, as added by this Act.

(b) Requires HHSC to seek to amend contracts entered into with managed care organizations under Chapter 533, Government Code, before the effective date of this Act to require those managed care organizations to comply with Sections 531.073(a-5) and 533.005(a)(23)(C-2), Government Code, as added by this Act. Provides that to the extent of a conflict between those sections and a provision of a contract with a managed care organization entered into before the effective date of this Act, the contract provision prevails.

SECTION 4. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 5. Effective date: September 1, 2021.