

# SENATE BILL NO. 1036

July 23, 2020, Introduced by Senators HERTEL, HOLLIER, BRINKS, MCMORROW, CHANG, POLEHANKI, WOJNO, GEISS and BAYER and referred to the Committee on Health Policy and Human Services.

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

1 require prior authorization for the following single source brand  
 2 name, generic equivalent of a multiple source brand name, or other  
 3 prescription drugs:

4 (a) A central nervous system prescription drug that is  
 5 classified as an anticonvulsant, antidepressant, antipsychotic, or  
 6 a noncontrolled substance antianxiety drug in a generally accepted  
 7 standard medical reference.

8 (b) A prescription drug that is cross-indicated for a central  
 9 nervous system drug exempted under subdivision (a) as documented in  
 10 a generally accepted standard medical reference.

11 (c) Unless the prescription drug is a controlled substance or  
 12 the prescription drug is being prescribed to treat a condition that  
 13 is excluded from coverage under this act, a prescription drug that  
 14 is recognized in a generally accepted standard medical reference as  
 15 effective in the treatment of conditions specified in the most  
 16 recent diagnostic and statistical manual of mental disorders  
 17 published by the American ~~psychiatric association.~~ **Psychiatric**  
 18 **Association, including substance use disorder.** The department or  
 19 the department's agent shall not deny a request for prior  
 20 authorization of a controlled substance under this subdivision  
 21 unless the department or the department's agent determines that the  
 22 controlled substance or the dosage of the controlled substance  
 23 being prescribed is not consistent with its licensed indications or  
 24 with generally accepted medical practice as documented in a  
 25 standard medical reference.

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

1           (e) ~~(d)~~ A prescription drug that is recognized in a generally  
 2 accepted standard medical reference for the treatment of and is  
 3 being prescribed to a patient for the treatment of any of the  
 4 following:

5           ~~(i) Human immunodeficiency virus infections or the~~  
 6 ~~complications of the human immunodeficiency virus or acquired~~  
 7 ~~immunodeficiency syndrome.~~

8           (i) ~~(ii)~~ Cancer.

9           (ii) ~~(iii)~~ Organ replacement therapy.

10          (iii) ~~(iv)~~ Epilepsy or seizure disorder.

11          (2) This section ~~does not apply~~ **applies** to drugs being  
 12 provided under a contract between the department and a health  
 13 maintenance organization.

14          (3) As used in this section:

15          (a) "Controlled substance" means that term as defined in  
 16 section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

17          (b) "Cross-indicated" means a drug ~~which~~ **that** is used for a  
 18 purpose generally held to be reasonable, appropriate, and within  
 19 community standards of practice even though the use is not included  
 20 in the ~~federal food and drug administration's~~ **United States Food**  
 21 **and Drug Administration's** approved labeled indications for that  
 22 drug.

23          (c) "Department" means the department of ~~community health~~ **and**  
 24 **human services.**

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

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

1 (f) "Prior authorization" means a process implemented by the  
2 department ~~of community health~~ that conditions, delays, or denies  
3 the delivery of particular pharmaceutical services to ~~medicaid~~  
4 ~~beneficiaries~~ **medical assistance recipients** upon application of  
5 predetermined criteria by the department or the department's agent  
6 for those pharmaceutical services covered by the department on a  
7 fee-for-service basis or ~~pursuant~~ **according** to a contract for those  
8 services. The process may require a prescriber to verify with the  
9 department or the department's agent that the proposed medical use  
10 of a 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.

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