Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1385

Introduced by

Representatives Weisz, Nelson, Pollert

Senators Erbele, Nething

A BILL for an Act to amend and reenact section 50-24.6-04 of the North Dakota Century Code, relating to the prior authorization program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.6-04 of the North Dakota Century Code is amended and reenacted as follows:

50-24.6-04. ~~(Effective through July 31, 2009)~~ Prior authorization program.

1. The department shall develop and implement a prior authorization program that meets the requirements of 42 U.S.C. 1396r-8(d) to determine coverage of drug products when a medical assistance recipient's health care provider prescribes a drug that is identified as requiring prior authorization. Authorization must be granted for provision of the drug if:
   a. The drug not requiring prior authorization has not been effective, or with reasonable certainty is not expected to be effective, in treating the recipient's condition;
   b. The drug not requiring prior authorization causes or is reasonably expected to cause adverse or harmful reactions to the health of the recipient; or
   c. The drug is prescribed for a medically accepted use supported by a compendium or by approved product labeling unless there is a therapeutically equivalent drug that is available without prior authorization.
2. For any drug placed on the prior authorization program, the department shall provide medical and clinical criteria, cost information, and utilization data to the drug use review board for review and consideration. The board may consider department data and information from other sources to make a decision about placement of the drug on prior authorization.

3. Except for quantity limits that may be no less than the pharmaceutical manufacturer's package insert or AB-rated generic equivalent drug for which the cost to the state postrebate is less than the brand name drugs, in the aggregate, the department may not prior authorize or otherwise restrict single-source or brand name antipsychotic, antidepressant, or other medications used to treat mental illnesses, such as schizophrenia, depression, or bipolar disorder, and drugs prescribed for the treatment of:
   a. Acquired immune deficiency syndrome or human immunodeficiency virus; and
   b. Cancer.
4. The department may use contractors to collect and analyze the documentation required under this section and to facilitate the prior authorization program.
5. The department shall consult with the board in the course of adopting rules to implement the prior authorization program. The rules must:
   a. Establish policies and procedures necessary to implement the prior authorization program.
   b. Develop a process that allows prescribers to furnish documentation required to obtain approval for a drug without interfering with patient care activities.
   c. Allow the board to establish panels of physicians and pharmacists which provide expert guidance and recommendations to the board in considering specific drugs or therapeutic classes of drugs to be included in the prior authorization program.

~~(Effective after July 31, 2009) Prior authorization program.~~

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