

MAINE STATE LEGISLATURE

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2022
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Date: 3/25/22 Majority

L.D. 1877
(Filing No. H-848)

HEALTH AND HUMAN SERVICES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1387, L.D. 1877, "An Act To Prohibit Prior Authorization Requirements and Step Therapy Protocols for Medications Addressing Serious Mental Illness for MaineCare Recipients"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

'Sec. 1. 22 MRSA §3174-III is enacted to read:

§3174-III. Treatment of serious mental illness

1. Definitions. For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Serious mental illness" means a mental disorder listed in the edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association that took effect October 1, 2021 that results in serious functional impairment that substantially interferes with or limits one or more major life activities. "Serious mental illness" does not include opioid use disorder, tobacco use disorder or any other substance use disorder.

B. "Step therapy" means a protocol or tiering system that establishes a specific sequence in which prescription drugs for a specified medical condition are determined to be medically necessary for a particular enrollee and are covered under a pharmacy or medical benefit by a carrier, including self-administered and physician-administered drugs.

2. Prior authorization or step therapy. The department may not require under the MaineCare program prior authorization or step therapy for prescription drugs used for the assessment or treatment of serious mental illness in adults.

3. Drug rebate program. The implementation of this section and any rules adopted pursuant to subsection 4 must be consistent with the requirements of the Medicaid drug rebate program established in 42 United States Code, Section 1396r-8. The department

COMMITTEE AMENDMENT

R.O.P.S

1 shall monitor the fiscal impact of implementing this section, including costs to Medicaid
2 that are both incurred and avoided.

3 4. Rules. The department may adopt rules to implement this section. Rules adopted
4 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,
5 subchapter 2-A.

6 **Sec. 2. State plan amendment.** No later than January 1, 2023, the Department of
7 Health and Human Services shall apply to the United States Department of Health and
8 Human Services, Centers for Medicare and Medicaid Services for a state plan amendment
9 to eliminate the requirement for prior authorization or a step therapy protocol for
10 prescription drugs used for the assessment or treatment of serious mental illness in adults.

11 **Sec. 3. Appropriations and allocations.** The following appropriations and
12 allocations are made.

13 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

14 **Medical Care - Payments to Providers 0147**

15 Initiative: Provides funding associated with changes to the prior authorization requirements
16 and step therapy protocols under the MaineCare program for prescription drugs used to
17 assess or treat serious mental illness.

18	GENERAL FUND	2021-22	2022-23
19	All Other	\$0	\$721,702
20			
21	GENERAL FUND TOTAL	\$0	\$721,702

23	FEDERAL EXPENDITURES FUND	2021-22	2022-23
24	All Other	\$0	\$1,690,973
25			
26	FEDERAL EXPENDITURES FUND TOTAL	\$0	\$1,690,973

28	FEDERAL BLOCK GRANT FUND	2021-22	2022-23
29	All Other	\$0	\$36,718
30			
31	FEDERAL BLOCK GRANT FUND TOTAL	\$0	\$36,718

32 **PNMI Room and Board Z009**

33 Initiative: Provides funding associated with changes to the prior authorization requirements
34 and step therapy protocols under the MaineCare program for prescription drugs used to
35 assess or treat serious mental illness.

36	GENERAL FUND	2021-22	2022-23
37	All Other	\$0	\$1,159
38			
39	GENERAL FUND TOTAL	\$0	\$1,159

40 **State-funded Foster Care/Adoption Assistance 0139**

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Initiative: Provides funding associated with changes to the prior authorization requirements and step therapy protocols under the MaineCare program for prescription drugs used to assess or treat serious mental illness.

GENERAL FUND	2021-22	2022-23
All Other	\$0	\$14,609
GENERAL FUND TOTAL	\$0	\$14,609

**HEALTH AND HUMAN SERVICES,
DEPARTMENT OF
DEPARTMENT TOTALS**

	2021-22	2022-23
GENERAL FUND	\$0	\$737,470
FEDERAL EXPENDITURES FUND	\$0	\$1,690,973
FEDERAL BLOCK GRANT FUND	\$0	\$36,718
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$2,465,161

Sec. 4. Contingent effective date. That section of this Act that enacts the Maine Revised Statutes, Title 22, section 3174-III takes effect only if:

1. The United States Department of Health and Human Services, Centers for Medicare and Medicaid Services approves a state plan amendment to eliminate the requirement for prior authorization or a step therapy protocol for prescription drugs used for assessment or treatment of serious mental illness in adults; and

2. The Commissioner of Health and Human Services notifies the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes that written approval for the state plan amendment has been received.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment is the majority report of the committee. It clarifies that "serious mental illness" does not include opioid disorder, tobacco use disorder or any other substance use disorder for the purposes of this legislation. It clarifies that step therapy includes a protocol or tiering system. It specifies that the prohibition on required prior authorization or step therapy for serious mental illness applies only to assessment or treatment of mental illness in adults. The amendment includes a requirement that the implementation must be consistent with the requirements of the Medicaid drug rebate program and that implementation requires approval by the federal Department of Health and Human Services, Centers for Medicare and Medicaid Services before taking effect. The amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)



130th MAINE LEGISLATURE

LD 1877

LR 2383(02)

An Act To Prohibit Prior Authorization Requirements and Step Therapy Protocols for Medications Addressing Serious Mental Illness for MaineCare Recipients

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-848)
Committee: Health and Human Services

Fiscal Note Required: Yes

Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Net Cost (Savings)				
General Fund	\$0	\$737,470	\$2,949,881	\$2,949,881
Appropriations/Allocations				
General Fund	\$0	\$737,470	\$2,949,881	\$2,949,881
Federal Expenditures Fund	\$0	\$1,690,973	\$6,763,892	\$6,763,892
Federal Block Grant Fund	\$0	\$36,718	\$146,872	\$146,872
Revenue				
Federal Expenditures Fund	\$0	\$1,690,973	\$6,763,892	\$6,763,892
Federal Block Grant Fund	\$0	\$36,718	\$146,872	\$146,872

Fiscal Detail and Notes

This bill includes General Fund appropriations to the Department of Health and Human Services of \$737,470 in fiscal year 2022-23 associated with changes to the prior authorization requirements and step therapy protocols under the MaineCare program for prescription drugs used to assess or treat serious mental illness in adults. Federal Expenditures Fund and Federal Block Grant Fund allocations are also included for the FMAP match.