

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 1428

H.P. 924

House of Representatives, March 30, 2023

**An Act to Ensure Treatment for MaineCare Recipients with Serious
Mental Illness by Prohibiting the Requirements for Prior
Authorization and Step Therapy for Medications**

(EMERGENCY)

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative MADIGAN of Waterville.
Cosponsored by Senator BRENNER of Cumberland and
Representatives: CRAFTS of Newcastle, GRAMLICH of Old Orchard Beach, SHAGOURY of
Hallowell.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** this legislation is needed to immediately remove the requirements for prior
4 authorization and step therapy for medications used to treat serious mental illness,
5 requirements that create unnecessary and potentially devastating interruptions in patient
6 care and unnecessary burdens for health care providers and that have the unintentional
7 effect of more costly and catastrophic outcomes; and

8 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
9 the meaning of the Constitution of Maine and require the following legislation as
10 immediately necessary for the preservation of the public peace, health and safety; now,
11 therefore,

12 **Be it enacted by the People of the State of Maine as follows:**

13 **Sec. 1. 22 MRSA §3174-KKK** is enacted to read:

14 **§3174-KKK. Treatment of serious mental illness**

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

17 A. "Serious mental illness" means a mental disorder listed in the Diagnostic and
18 Statistical Manual of Mental Disorders published in 2022 by the American Psychiatric
19 Association that results in serious functional impairment that substantially interferes
20 with or limits one or more major life activities.

21 B. "Step therapy protocol" means a protocol or tiered program that establishes a
22 specific sequence in which prescription drugs for a specified medical condition are
23 medically necessary for a particular MaineCare member and are covered under this
24 chapter, including self-administered and physician-administered drugs.

25 **2. Prior authorization or step therapy protocol.** The department may not require
26 under the MaineCare program prior authorization or a step therapy protocol for prescription
27 drugs used for the assessment or treatment of serious mental illness, except that the
28 department may impose a prior authorization requirement for a dosage increase that
29 exceeds the department's dosing criteria as identified on the department's MaineCare
30 preferred drug list.

31 **3. Medicaid.** The implementation of this section and rules adopted pursuant to this
32 section must be consistent with the requirements of the Medicaid drug rebate program.

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

36 **Emergency clause.** In view of the emergency cited in the preamble, this legislation
37 takes effect when approved.

38 **SUMMARY**

39 This bill prohibits prior authorization requirements and step therapy protocols under
40 the MaineCare program for prescription drugs used to assess or treat serious mental illness.

1 The implementation of the prohibition must be consistent with the requirements of the
2 Medicaid drug rebate program.