# SENATE
## STATE OF MINNESOTA
## NINETY-SECOND SESSION

# S.F. No. 4211

**(SENATE AUTHORS: ISAACSON, Wiklund, Murphy and Dibble)**

| DATE | D-PG | OFFICIAL STATUS |
|---|---|---|
| 03/23/2022 | 5567 | Introduction and first reading<br>Referred to Health and Human Services Finance and Policy |

A bill for an act

relating to health care; prohibiting prior authorization for prescription drugs prescribed for the treatment of mental illness in the medical assistance and MinnesotaCare programs; amending Minnesota Statutes 2020, section 256B.0625, subdivisions 13f, 13j.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2020, section 256B.0625, subdivision 13f, is amended to read:

Subd. 13f. **Prior authorization.** (a) The Formulary Committee shall review and recommend drugs which require prior authorization. The Formulary Committee shall establish general criteria to be used for the prior authorization of brand-name drugs for which generically equivalent drugs are available, but the committee is not required to review each brand-name drug for which a generically equivalent drug is available.

(b) Prior authorization may be required by the commissioner before certain formulary drugs are eligible for payment. The Formulary Committee may recommend drugs for prior authorization directly to the commissioner. The commissioner may also request that the Formulary Committee review a drug for prior authorization. Before the commissioner may require prior authorization for a drug:

(1) the commissioner must provide information to the Formulary Committee on the impact that placing the drug on prior authorization may have on the quality of patient care and on program costs, information regarding whether the drug is subject to clinical abuse or misuse, and relevant data from the state Medicaid program if such data is available;

(2) the Formulary Committee must review the drug, taking into account medical and clinical data and the information provided by the commissioner; and

(3) the Formulary Committee must hold a public forum and receive public comment for an additional 15 days.

The commissioner must provide a 15-day notice period before implementing the prior authorization.

(c) ~~Except as provided in subdivision 13j,~~ Prior authorization shall not be required or utilized for any ~~atypical antipsychotic~~ drug prescribed for the treatment of mental illness as defined in section 245.462, subdivision 20, if~~:~~ the drug prescribed is approved by the United States Food and Drug Administration for the treatment of mental illness.

~~(1) there is no generically equivalent drug available; and~~

~~(2) the drug was initially prescribed for the recipient prior to July 1, 2003; or~~

~~(3) the drug is part of the recipient's current course of treatment.~~

This paragraph applies to any ~~multistate~~ preferred drug list or supplemental drug rebate program established or administered by the commissioner. ~~Prior authorization shall automatically be granted for 60 days for brand name drugs prescribed for treatment of mental illness within 60 days of when a generically equivalent drug becomes available, provided that the brand name drug was part of the recipient's course of treatment at the time the generically equivalent drug became available.~~

(d) Except as specified in paragraph (c), the commissioner may require prior authorization for brand name drugs whenever a generically equivalent product is available, even if the prescriber specifically indicates "dispense as written-brand necessary" on the prescription as required by section 151.21, subdivision 2.

(e) Notwithstanding this subdivision, the commissioner may automatically require prior authorization, for a period not to exceed 180 days, for any drug that is approved by the United States Food and Drug Administration on or after July 1, 2005. The 180-day period begins no later than the first day that a drug is available for shipment to pharmacies within the state. The Formulary Committee shall recommend to the commissioner general criteria to be used for the prior authorization of the drugs, but the committee is not required to review each individual drug. In order to continue prior authorizations for a drug after the 180-day period has expired, the commissioner must follow the provisions of this subdivision.

(f) Prior authorization under this subdivision shall comply with section 62Q.184.

(g) Any step therapy protocol requirements established by the commissioner must comply with section 62Q.1841.

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 2. Minnesota Statutes 2020, section 256B.0625, subdivision 13j, is amended to read:

Subd. 13j. **Antipsychotic and attention deficit disorder and attention deficit hyperactivity disorder medications.** (a) The commissioner, in consultation with the Drug Utilization Review Board established in subdivision 13i and actively practicing pediatric mental health professionals, must:

(1) identify recommended pediatric dose ranges for atypical antipsychotic drugs and drugs used for attention deficit disorder or attention deficit hyperactivity disorder based on available medical, clinical, and safety data and research. The commissioner shall periodically review the list of medications and pediatric dose ranges and update the medications and doses listed as needed after consultation with the Drug Utilization Review Board;

(2) identify situations where a collaborative psychiatric consultation and prior authorization should be required before the initiation or continuation of drug therapy in pediatric patients including, but not limited to, high-dose regimens, off-label use of prescription medication, a patient's young age, and lack of coordination among multiple prescribing providers; and

(3) track prescriptive practices and the use of psychotropic medications in children with the goal of reducing the use of medication, where appropriate.

(b) ~~Effective July 1, 2011,~~ The commissioner shall require ~~prior authorization and~~ a collaborative psychiatric consultation before an atypical antipsychotic and attention deficit disorder and attention deficit hyperactivity disorder medication meeting the criteria identified in paragraph (a), clause (2), is eligible for payment. A collaborative psychiatric consultation must be completed before the identified medications are eligible for payment unless:

(1) the patient has already been stabilized on the medication regimen; or

(2) the prescriber indicates that the child is in crisis.

If clause (1) or (2) applies, the collaborative psychiatric consultation must be completed within 90 days for payment to continue.

(c) For purposes of this subdivision, a collaborative psychiatric consultation must meet the criteria described in section 245.4862, subdivision 4.

**EFFECTIVE DATE.** This section is effective January 1, 2023.