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Senate Bill 1036 (as introduced 7-23-20)
Sponsor: Senator Curtis Hertel, Jr.
Committee: Health Policy and Human Services

Date Completed: 10-7-20

CONTENT

The bill would amend the Social Welfare Act to do the following:

- Prohibit the Department of Health and Human Services (DHHS) from requiring prior authorization for certain single source brand name, generic equivalent of a multiple source brand name, or other prescription drugs to prevent the acquisition of Human Immunodeficiency Virus (HIV).**
- Specify that Section 109h would apply to drugs being provided under a contract between the DHHS and a health maintenance organization.**

The bill would take effect 90 days after enactment.

Section 109h of the Act prohibits the DHHS, if it develops a prior authorization process for prescription drugs as part of the pharmaceuticals services offered under the Medical Assistance Program administered under the Act, from requiring prior authorizations for certain single source brand name, generic equivalent of a multiple source brand name, or other prescription drugs, including a prescription drug that is recognized in a generally accepted standard medical reference for the treatment of HIV or the complications of HIV or Acquired Immunodeficiency Syndrome (AIDS).

Under the bill, the DHHS could not require prior authorization for single source brand name, generic equivalent of a multiple source brand name, or other prescription drug that is recognized in a generally accepted standard medical reference to prevent acquisition of or to treat HIV infection or complications of HIV or AIDS.

"Prior authorization" means a process implemented by the DHHS that conditions, delays, or denies the delivery of particular pharmaceutical services to Medical Assistance recipients upon application of predetermined criteria by the Department or its agent for those pharmaceutical services covered by the Department on a fee-for-service basis or pursuant to a contract for those services. The process may require a prescriber to verify with the DHHS or its agent that the proposed medical use of a prescription drug being prescribed for a patient meets the predetermined criteria for a prescription drug that is otherwise covered under the Act or require a prescriber to obtain authorization from the Department or the Department's agent before prescribing or dispensing a prescription drug that is not included on a preferred drug list or that is subject to special access or reimbursement restrictions.

Section 109h does not apply to drugs being provided under a contract between the DHHS and a health maintenance organization. Instead, under the bill, Section 109h *would* apply to drugs being provided under a contract between the DHHS and a health maintenance organization.

MCL 400.109h

Legislative Analyst: Dana Adams
Stephen Jackson

FISCAL IMPACT

The bill would have no fiscal impact because it would codify in the Public Health Code provisions included in Section 1875 of the Department of Health and Human Services budget; accordingly, the bill would not change State policy.

Fiscal Analyst: Steve Angelotti

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.