

House Bill 2098

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber for Oregon Health Authority)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes Oregon Health Authority to require prior authorization for coverage of mental health drug not on drug list of Practitioner-Managed Prescription Drug Plan.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to mental health drugs; amending ORS 414.325; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 414.325 is amended to read:

5 414.325. (1) As used in this section:

6 (a) "Legend drug" means any drug requiring a prescription by a practitioner, as defined in ORS
7 689.005.

8 *[(b) "Mental health drug" means a type of legend drug defined by the Oregon Health Authority by
9 rule that includes, but is not limited to:]*

10 *[(A) Therapeutic class 7 ataractics-tranquilizers; and]*

11 *[(B) Therapeutic class 11 psychostimulants-antidepressants.]*

12 *[(c)]* **(b)** "Urgent medical condition" means a medical condition that arises suddenly, is not life-
13 threatening and requires prompt treatment to avoid the development of more serious medical prob-
14 lems.

15 (2) The **Oregon Health** Authority shall reimburse the cost of a legend drug prescribed for a
16 recipient of medical assistance only if the legend drug:

17 (a) Is on the drug list of the Practitioner-Managed Prescription Drug Plan adopted under ORS
18 414.334;

19 (b) Is in a therapeutic class of non-sedating antihistamines and nasal inhalers, as defined by the
20 authority by rule, and is prescribed by an allergist for the treatment of:

21 (A) Asthma;

22 (B) Sinusitis;

23 (C) Rhinitis; or

24 (D) Allergies; or

25 (c) Is prescribed and dispensed under this chapter by a licensed practitioner at a rural health
26 clinic for an urgent medical condition and:

27 (A) There is no pharmacy within 15 miles of the clinic;

28 (B) The prescription is dispensed for a patient outside of the normal business hours of any
29 pharmacy within 15 miles of the clinic; or

30 (C) No pharmacy within 15 miles of the clinic dispenses legend drugs under this chapter.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (3) The authority shall pay only for drugs in the generic form unless an exception has been
2 granted by the authority through the prior authorization process adopted by the authority under
3 subsection (4) of this section.

4 (4) Notwithstanding subsection (2) of this section, the authority shall provide reimbursement for
5 a legend drug that does not meet the criteria in subsection (2) of this section if:

6 [(a) *It is a mental health drug.*]

7 [(b)] (a) The authority grants approval through a prior authorization process adopted by the
8 authority by rule.

9 [(c)] (b) The prescriber contacts the authority requesting prior authorization and the authority
10 or its agent fails to respond to the telephone call or to a prescriber's request made by electronic
11 mail within 24 hours.

12 [(d)] (c) After consultation with the authority or its agent, the prescriber, in the prescriber's
13 professional judgment, determines that the drug is medically appropriate.

14 [(e)] (d) The original prescription was written prior to July 28, 2009, or the request is for a refill
15 of a prescription for:

16 (A) The treatment of seizures, cancer, HIV or AIDS; or

17 (B) An immunosuppressant.

18 [(f)] (e) It is a drug in a class not evaluated for the Practitioner-Managed Prescription Drug Plan
19 adopted under ORS 414.334.

20 (5) Notwithstanding subsections (1) to (4) of this section, the authority is authorized to:

21 (a) Withhold payment for a legend drug when federal financial participation is not available;

22 (b) Require prior authorization of payment for drugs that the authority has determined should
23 be limited to those conditions generally recognized as appropriate by the medical profession; and

24 (c) Withhold payment for a legend drug that is not a funded health service on the prioritized list
25 of health services established by the Health Services Commission under ORS 414.720.

26 (6) Notwithstanding ORS 414.334, the authority may conduct prospective drug utilization review
27 prior to payment for drugs for a patient whose prescription drug use exceeded 15 drugs in the pre-
28 ceding six-month period.

29 (7) Notwithstanding subsection (3) of this section, the authority may pay a pharmacy for a par-
30 ticular brand name drug rather than the generic version of the drug after notifying the pharmacy
31 that the cost of the particular brand name drug, after receiving discounted prices and rebates, is
32 equal to or less than the cost of the generic version of the drug.

33 (8)(a) Within 180 days after the United States patent expires on an immunosuppressant drug
34 used in connection with an organ transplant, the authority shall determine whether the drug is a
35 narrow therapeutic index drug.

36 (b) As used in this subsection, "narrow therapeutic index drug" means a drug that has a narrow
37 range in blood concentrations between efficacy and toxicity and requires therapeutic drug concen-
38 tration or pharmacodynamic monitoring.

39 (9) The authority shall appoint an advisory committee in accordance with ORS 183.333 for any
40 rulemaking conducted pursuant to this section.

41 **SECTION 2. This 2011 Act being necessary for the immediate preservation of the public**
42 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
43 **on its passage.**