

HOUSE BILL No. 2259

By Committee on Health and Human Services

2-1

1 AN ACT concerning health and healthcare; relating to mental health;
2 medications; providing that certain medications be available without
3 prior authorization to treat medicaid patients; abolishing the mental
4 health medication advisory committee; amending K.S.A. 39-7,121 and
5 39-7,121b and repealing the existing sections.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 39-7,121 is hereby amended to read as follows: 39-
9 7,121. (a) The department of health and environment shall establish and
10 implement an electronic pharmacy claims management system in order to
11 provide for the ~~on-line~~ online adjudication of claims and for electronic
12 prospective drug utilization review.

13 (b) The system shall provide for electronic point-of-sale review of
14 drug therapy using predetermined standards to screen for potential drug
15 therapy problems, including incorrect drug dosage, adverse drug-drug
16 interactions, drug-disease contraindications, therapeutic duplication,
17 incorrect duration of drug treatment, drug-allergy interactions and clinical
18 abuse or misuse.

19 (c) The department of health and environment shall not utilize the
20 system established under this section, or any other system or program, to
21 require that a recipient has utilized or failed with a drug usage or drug
22 therapy prior to allowing the recipient to receive the product or therapy
23 recommended by the recipient's physician:

24 (1) If such recommended drug usage or drug therapy commenced on
25 or before July 1, 2016; or

26 (2) for a period of longer than 30 days, if the drug usage or drug
27 therapy is used for the treatment of multiple sclerosis.

28 (d) (1) If the department of health and environment utilizes the
29 system established under this section, or any other system or program, to
30 require that a recipient has utilized or failed with a drug usage or drug
31 therapy prior to allowing the recipient to receive any product or therapy
32 recommended by the recipient's physician, the department shall provide
33 access for prescribing physicians to a clear and convenient process to
34 request an override of such requirement. The department shall
35 expeditiously grant such request for an override if:

36 (A) The required drug usage or drug therapy is contraindicated for the

1 patient or will likely cause an adverse reaction by or physical or mental
2 harm to the patient;

3 (B) the required drug usage or drug therapy is expected to be
4 ineffective based on the known relevant clinical characteristics of the
5 patient and the known characteristics of the required drug usage or drug
6 therapy;

7 (C) the patient has tried the required drug usage or drug therapy while
8 under the patient's current or previous health insurance or health benefit
9 plan, and such use was discontinued due to lack of efficacy or
10 effectiveness, diminished effect or an adverse event. For purposes of this
11 paragraph, use of pharmacy drug samples shall not constitute use and
12 failure of such drug usage or drug therapy; or

13 (D) the patient has previously been found to be stable on a different
14 drug usage or drug therapy selected by such patient's physician for
15 treatment of the medical condition under consideration.

16 (2) The department of health and environment, or any managed care
17 organization or other entity administering the system established under this
18 section, or any other similar system or program, shall respond to and
19 render a decision upon a prescribing physician's request for an override as
20 provided in this subsection within 72 hours of receiving such request.

21 (e)-(4) Any proposed department of health and environment policy or
22 rule and regulation related to any use of the system established under this
23 section, or any other system or program, to require that a recipient has
24 utilized or failed with a drug usage or drug therapy prior to allowing the
25 recipient to receive any product or therapy recommended by the recipient's
26 physician, shall be reviewed and approved by the medicaid drug utilization
27 review board established by K.S.A. 39-7,119, and amendments thereto,
28 prior to implementation by the department.

29 ~~(2) Any proposed policy or rule and regulation related to use of any~~
30 ~~such system related to any medication used to treat mental illness shall be~~
31 ~~reviewed and approved by the mental health medication advisory~~
32 ~~committee established by K.S.A. 39-7,121b, and amendments thereto, and~~
33 ~~the medicaid drug utilization review board established by K.S.A. 39-7,119,~~
34 ~~and amendments thereto, prior to implementation by the department.~~

35 (f) The secretary of health and environment shall study and review
36 the use of the program established under this section and prepare a report
37 detailing the exact amount of money saved by using such program that
38 requires that a recipient utilized or failed a drug usage or drug therapy
39 prior to allowing the recipient to receive any product or therapy
40 recommended by the recipient's physician and the percentage and amount
41 of such savings that are returned to the state of Kansas. The secretary shall
42 submit such report to the senate committee on public health and welfare,
43 the senate committee on ways and means, the house of *representatives*

1 committee on appropriations and the house of representatives committee
2 on health and human services ~~on or before January 9, 2017 and, or any~~
3 ~~successor committees thereto~~, on or before the first day of ~~the each~~ regular
4 session of the legislature ~~each year thereafter~~.

5 Sec. 2. K.S.A. 39-7,121b is hereby amended to read as follows: 39-
6 7,121b. (a) No requirements for prior authorization or other restrictions on
7 medications used to treat mental illnesses ~~may, including, but not limited~~
8 ~~to, conventional antipsychotic medications and atypical antipsychotic~~
9 ~~medications, shall be imposed on medicaid recipients, except on~~
10 ~~medications subject to guidelines developed by the medicaid drug~~
11 ~~utilization review board according to subsection (b).~~

12 (b) None of the following shall be construed as restrictions under this
13 subsection ~~section~~:

- 14 (1) Any alert to a pharmacist that does not deny the claim and can be
15 overridden by the pharmacist;
- 16 (2) prescriber education activities; or
- 17 (3) the consolidation of dosing regimens to equivalent doses.

18 ~~(b) The mental health medication advisory committee shall provide~~
19 ~~recommendations to the medicaid drug utilization review board for the~~
20 ~~purpose of developing guidelines. The medicaid drug utilization review~~
21 ~~board may accept the recommendations of the mental health medication~~
22 ~~advisory committee in whole and such recommendations shall take effect~~
23 ~~immediately upon such approval. The medicaid drug utilization review~~
24 ~~board may reject the recommendations of the mental health medication~~
25 ~~advisory committee in whole and such recommendations shall be referred~~
26 ~~back to the mental health medication advisory committee for further~~
27 ~~consideration. No medication guidelines related to mental health~~
28 ~~medications shall be adopted by the medicaid drug utilization review~~
29 ~~board without recommendations made by the mental health medication~~
30 ~~advisory committee.~~

31 (c) ~~For the medications used to treat mental illness that are available~~
32 ~~for use on July 1, 2015, the medicaid drug utilization review board shall~~
33 ~~review all such medications prior to July 1, 2016. For medications used to~~
34 ~~treat mental illness that do not exist on July 1, 2015, but are later~~
35 ~~developed or believed to be effective in the treatment of mental illness, the~~
36 ~~medicaid drug utilization board shall review all such medications within~~
37 ~~six months of presentation to the medicaid drug utilization review board.~~

38 ~~(d) The mental health medication advisory committee is hereby~~
39 ~~established.~~

40 ~~(1) The mental health medication advisory committee shall be~~
41 ~~appointed by the secretary of health and environment and consist of nine~~
42 ~~members; including the secretary of health and environment, or the~~
43 ~~secretary's designee, who shall be the chair of the committee; two persons~~

1 licensed to practice medicine and surgery with board certification in
2 psychiatry nominated by the Kansas psychiatric society, one of whom
3 specializes in geriatric mental health; two persons licensed to practice
4 medicine and surgery with board certification in psychiatry nominated by
5 the association of community mental health centers of Kansas, one of
6 whom specializes in pediatric mental health; two pharmacists nominated
7 by the Kansas pharmacists association; one person licensed to practice
8 medicine and surgery nominated by the Kansas medical society; and one
9 advanced practice registered nurse engaged in a role of mental health
10 nominated by the Kansas state nurses association. All nominating bodies
11 shall provide two nominees for each position for which they provide
12 nominations, with the secretary selecting the appointee from the provided
13 nominees.

14 (2) ~~The mental health medication advisory committee shall meet~~
15 ~~upon the request of the chair of the mental health medication advisory~~
16 ~~committee, but shall meet at least one time each quarter.~~

17 (3) ~~Members of the mental health medication advisory committee are~~
18 ~~entitled to compensation and expenses as provided in K.S.A. 75-3223, and~~
19 ~~amendments thereto. Members of the committee attending committee~~
20 ~~meetings shall be paid mileage and all other applicable expenses, provided~~
21 ~~such expenses are consistent with policies established by the secretary of~~
22 ~~health and environment.~~

23 (c) *On July 1, 2023, the mental health medication advisory committee*
24 *is hereby abolished.*

25 Sec. 3. K.S.A. 39-7,121 and 39-7,121b are hereby repealed.

26 Sec. 4. This act shall take effect and be in force from and after its
27 publication in the statute book.