

1.1 A bill for an act

1.2 relating to human services; modifying medical assistance drug formulary
1.3 committee provisions; amending Minnesota Statutes 2006, section 256B.0625,
subdivision 13f; Minnesota Statutes 2007 Supplement, section 256B.0625,
subdivision 13c.

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

1.7 Section 1. Minnesota Statutes 2007 Supplement, section 256B.0625, subdivision 13c,
1.8 is amended to read:

1.9 Subd. 13c. **Formulary committee.** The commissioner, shall provide a notice of
1.10 vacancies and post an application for appointment to the formulary committee on the
1.11 department's Web site. After reviewing the applications and receiving ~~recommendations~~
1.12 input from professional medical associations ~~and~~ professional pharmacy associations, and
1.13 consumer groups, the commissioner shall designate a formulary committee to carry out
1.14 duties as described in subdivisions 13 to 13g. The formulary committee shall be comprised
1.15 of four licensed physicians actively engaged in the practice of medicine in Minnesota one
1.16 of whom must be actively engaged in the treatment of persons with mental illness; at least
1.17 three licensed pharmacists actively engaged in the practice of pharmacy in Minnesota;
1.18 a clinical researcher; and one three ~~consumer representative~~ representatives; the remainder
1.19 to be made up of health care or mental health care professionals who are licensed in their
1.20 field and have recognized knowledge in the clinically appropriate prescribing, dispensing,
1.21 and monitoring of covered outpatient drugs. Members of the formulary committee shall
1.22 not be employed by the Department of Human Services, but the committee shall be staffed
1.23 by an employee of the department who shall serve as an ex officio, nonvoting member
1.24 of the committee. The department's medical director shall also serve as an ex officio,
1.25 nonvoting member for the committee. Committee members shall serve three-year terms

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2.1 and may be reappointed once by the commissioner for a total of two consecutive terms.
2.2 The formulary committee shall meet at least quarterly. The commissioner may require
2.3 more frequent formulary committee meetings as needed. Meeting notices and drugs to be
2.4 considered shall be conspicuously posted on the department's Web site at least 14 days
2.5 prior to a meeting. An honorarium of \$100 per meeting and reimbursement for mileage
2.6 shall be paid to each committee member in attendance.

2.7 Sec. 2. Minnesota Statutes 2006, section 256B.0625, subdivision 13f, is amended to
2.8 read:

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

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

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

2.23 (2) the formulary committee must review the drug, taking into account medical and
2.24 clinical data and the information provided by the commissioner or other sources; and

2.25 (3) the formulary committee must hold a public forum and receive public comment
2.26 for an additional 15 days. Notice of the forum must be published in the State Register.

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

2.29 (c) Prior authorization shall not be required or utilized for any atypical antipsychotic
2.30 drug prescribed for the treatment of mental illness ~~if:~~

2.31 (d) Prior authorization shall not be required or utilized for any other medication used
2.32 to treat mental illness if:

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

2.34 (2) ~~the drug was initially prescribed for the recipient prior to July 1, 2003;~~ the drug
2.35 provides a new method of delivery, longevity, or dosage; or

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

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

3.8 ~~(d)~~ (e) Prior authorization shall not be required or utilized for any antihemophilic
3.9 factor drug prescribed for the treatment of hemophilia and blood disorders where there is
3.10 no generically equivalent drug available if the prior authorization is used in conjunction
3.11 with any supplemental drug rebate program or multistate preferred drug list established or
3.12 administered by the commissioner.

3.13 ~~(e)~~ (f) The commissioner may require prior authorization for brand name drugs
3.14 whenever a generically equivalent product is available, even if the prescriber specifically
3.15 indicates "dispense as written-brand necessary" on the prescription as required by section
3.16 151.21, subdivision 2.

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