

By: Klick

H.B. No. 3286

Substitute the following for H.B. No. 3286:

By: Harless

C.S.H.B. No. 3286

A BILL TO BE ENTITLED

AN ACT

relating to certain prescription drug benefits under the Medicaid managed care program.

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

SECTION 1. Chapter 533, Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. PRESCRIPTION DRUG BENEFITS UNDER CERTAIN OUTPATIENT PHARMACY BENEFIT PLANS

Sec. 533.071. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to an outpatient pharmacy benefit plan implemented by a Medicaid managed care organization.

Sec. 533.072. PREFERRED DRUG LIST EXCEPTIONS. Notwithstanding any other law, a Medicaid managed care organization is not required to adhere to the preferred drug list adopted by the commission under Section 531.072 and shall grant an exception to the list with respect to a recipient if:

(1) the preferred drug:

(A) is contraindicated;

(B) will likely cause an adverse reaction in or physical or mental harm to the recipient; or

(C) is expected to be ineffective based on the known clinical characteristics of the recipient and the known characteristics of the prescription drug regimen;

(2) the recipient previously discontinued taking the

1 preferred drug at any point in the recipient's clinical history and
2 for any length of time because the drug:

3 (A) was not effective;

4 (B) had a diminished effect; or

5 (C) resulted in an adverse event;

6 (3) the preferred drug is not in the best interest of
7 the recipient, based on clinical appropriateness, because the
8 recipient's use of the drug is expected to cause a significant
9 barrier to the recipient's adherence to or compliance with the
10 recipient's plan of care;

11 (4) the recipient was prescribed and is taking a
12 nonpreferred drug in the antidepressant or antipsychotic drug class
13 and the recipient:

14 (A) was prescribed the nonpreferred drug before
15 being discharged from an inpatient facility;

16 (B) is stable on the nonpreferred drug; and

17 (C) is at risk of experiencing complications from
18 switching from the nonpreferred drug to another drug;

19 (5) the preferred drug is not available for reasons
20 outside of the Medicaid managed care organization's control,
21 including because:

22 (A) the drug is in short supply according to the
23 Food and Drug Administration Drug Shortages Database; or

24 (B) the drug's manufacturer has placed the drug
25 on backorder or allocation; or

26 (6) the preferred drug is not available at a pharmacy
27 located within a 10-mile radius of the recipient.

1 Sec. 533.073. PREFERRED DRUG LIST; SEARCHABLE DATABASE OF
2 PREFERRED DRUGS AND RESTRICTIONS. The commission shall ensure
3 that:

4 (1) an Internet-based, searchable database is made
5 available through which a provider may search the applicable
6 preferred drug list adopted by the commission under Section 531.072
7 to easily determine whether a prescription drug or drug class is
8 subject to any prior authorization requirements, clinical edits, or
9 other clinical restrictions; and

10 (2) reasonable efforts are made to ensure the database
11 contains current information.

12 SECTION 2. If before implementing any provision of this Act
13 a state agency determines that a waiver or authorization from a
14 federal agency is necessary for implementation of that provision,
15 the agency affected by the provision shall request the waiver or
16 authorization and may delay implementing that provision until the
17 waiver or authorization is granted.

18 SECTION 3. This Act takes effect September 1, 2023.