BILL ANALYSIS

C.S.H.B. 2822
By: Hull
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There are concerns that prior authorization requirements under Medicaid managed care and the vendor drug program are burdensome to physicians and providers and may have the potential to prevent adult patients with serious mental illness from receiving essential medications. C.S.H.B. 2822 seeks to address these concerns and improve the availability of prescription antipsychotic drugs for those patients by preventing prior authorization from being used for such drugs under certain conditions and providing for the automation of clinical prior authorization for each drug in the antipsychotic drug class.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2822 amends the Government Code to prohibit the executive commissioner of the Health and Human Services Commission (HHSC), in the rules and standards governing the Medicaid vendor drug program, from requiring prior authorization for a nonpreferred antipsychotic drug that is included on the vendor drug formulary prescribed to an adult patient if any one of the following requirements is satisfied:

- during the preceding year, the patient was prescribed and unsuccessfully treated with a 14-day treatment trial of an antipsychotic drug that is included on the appropriate preferred drug list and for which a single claim was paid;
- the patient has previously been prescribed and obtained prior authorization for the nonpreferred antipsychotic drug and the prescription is for the purpose of drug dosage titration; or
- subject to federal law on maximum dosage limits and HHSC rules on drug quantity limits, the patient has previously been prescribed and obtained prior authorization for the nonpreferred antipsychotic drug and the prescription modifies the dosage, dosage frequency, or both, of the drug as part of the same treatment for which the drug was previously prescribed.

The bill requires a contract between HHSC and a Medicaid managed care organization (MCO) to contain a requirement that the MCO develop, implement, and maintain an outpatient pharmacy benefit plan for its enrolled recipients that does not require prior authorization for a nonpreferred antipsychotic drug prescribed to an adult recipient if the requirements of the prohibition are met. The bill establishes that the prohibition does not affect the following:

- the authority of a pharmacist to dispense the generic equivalent or interchangeable biological product of a prescription drug;
- any drug utilization review requirements prescribed by state or federal law; or
- clinical prior authorization edits to preferred and nonpreferred antipsychotic drug prescriptions.

C.S.H.B. 2822 requires the executive commissioner of HHSC, in the rules and standards governing the Medicaid vendor drug program and as part of the requirements under a contract between HHSC and an MCO, to do the following:

- require automation of clinical prior authorization for each drug in the antipsychotic drug class to the maximum extent possible based on a pharmacy benefit manager's claim system; and
- ensure that, at the time a nonpreferred or clinical prior authorization edit is denied, a pharmacist is immediately provided a point-of-sale return message that:
    - clearly specifies the contact and other information necessary for the pharmacist to submit a prior authorization request for the prescription; and
    - instructs the pharmacist to dispense, only if clinically appropriate under federal or state law, a 72-hour supply of the prescription.

C.S.H.B. 2822 requires HHSC, in a contract with an MCO entered into or renewed on or after the bill's effective date, to require the MCO to comply with the bill provisions applicable to MCOs and requires HHSC to seek to amend contracts entered into with MCOs before the bill's effective date to require compliance with those provisions. To the extent there is a conflict between the bill and a provision of a contract with an MCO entered into before the bill's effective date, the contract provision prevails.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2822 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The original and substitute differ with respect to the prohibition against the use of certain prior authorization for antipsychotic drugs under the Medicaid vendor drug program. The original prohibited the executive commissioner from requiring clinical, nonpreferred, or other prior authorization for an antipsychotic drug prescribed to an adult patient under the following conditions:

- the patient has a diagnosed mental illness for which the drug is prescribed;
- the drug is FDA-approved; and
- the prescribing physician or other health care provider does the following:
    - determines there is a medical necessity for prescribing the drug;
    - determines, in consultation with the patient, that the drug is the most appropriate course of treatment for the patient's mental illness;
    - indicates on the prescription that the drug must be dispensed as written; and
    - documents in the patient's health care record that each requirement has been satisfied.

The substitute prohibits the executive commissioner instead from requiring prior authorization for a nonpreferred antipsychotic drug that is included on the vendor drug formulary and prescribed to an adult patient if any one of the following requirements is satisfied:

- during the preceding year, the patient was prescribed and unsuccessfully treated with a 14-day treatment trial of an antipsychotic drug that is included on the appropriate preferred drug list and for which a single claim was paid;

- the patient has previously been prescribed and obtained prior authorization for the nonpreferred antipsychotic drug and the prescription is for the purpose of drug dosage titration; or
- the patient has previously been prescribed and obtained prior authorization for the nonpreferred antipsychotic drug and the prescription modifies the dosage, dosage frequency, or both, of the drug as part of the same treatment for which the drug was previously prescribed.

The substitute includes a provision not in the original establishing that the prohibition does not affect clinical prior authorization edits to preferred and nonpreferred antipsychotic drug prescriptions. The substitute's changes to the Medicaid vendor drug program prohibition also result in the same changes to the conditions under which an MCO under contract with HHSC may not require prior authorization for an antipsychotic drug.

The substitute includes a requirement absent from the original for the executive commissioner, in the rules and standards governing the Medicaid vendor drug program and as part of the requirements under a contract between HHSC and an MCO, to do the following:

- require automation of clinical prior authorization for each drug in the antipsychotic drug class to the maximum extent possible based on a pharmacy benefit manager's claim system; and
- ensure that, at the time a nonpreferred or clinical prior authorization edit is denied, a pharmacist is immediately provided a certain point-of-sale return message.