

CHAPTER 394

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 23-1130

BY REPRESENTATIVE(S) Michaelson Jenet, Young, Amabile, Armagost, Bird, Boesenecker, Bradfield, Bradley, Brown, deGruy Kennedy, Dickson, Duran, English, Epps, Froelich, Garcia, Hamrick, Joseph, Lieder, Lindsay, Lindstedt, Lukens, Mabrey, Martinez, Mauro, McCormick, Parenti, Ricks, Sirota, Snyder, Soper, Story, Titone, Valdez, Vigil, Weinberg, Weissman, Willford, Woodrow, McCluskie;
also SENATOR(S) Rodriguez and Kolker, Buckner, Fields, Coleman, Cutter, Ginal, Gonzales, Moreno, Priola, Sullivan, Van Winkle, Winter F., Fenberg.

AN ACT

CONCERNING REQUIREMENTS FOR PRESCRIPTION DRUG COVERAGE FOR SERIOUS MENTAL ILLNESS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 10-16-145, **add** (1)(f.5) and (4.5) as follows:

10-16-145. Step therapy - limitations - exceptions - definitions - rules. (1) As used in this section:

(f.5) "SERIOUS MENTAL ILLNESS" MEANS THE FOLLOWING PSYCHIATRIC ILLNESSES, AS DEFINED BY THE AMERICAN PSYCHIATRIC ASSOCIATION IN THE MOST RECENT VERSION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS:

- (I) BIPOLAR DISORDERS (HYPOMANIC, MANIC, DEPRESSIVE, AND MIXED);
- (II) DEPRESSION IN CHILDHOOD AND ADOLESCENCE;
- (III) MAJOR DEPRESSIVE DISORDERS (SINGLE EPISODE OR RECURRENT);
- (IV) OBSESSIVE-COMPULSIVE DISORDERS;
- (V) PARANOID AND OTHER PSYCHOTIC DISORDERS;

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(VI) SCHIZOAFFECTIVE DISORDERS (BIPOLAR OR DEPRESSIVE); AND

(VII) SCHIZOPHRENIA.

(4.5) WITH RESPECT TO A COVERED DRUG PRESCRIBED FOR SERIOUS MENTAL ILLNESS:

(a) IF, UNDER A HEALTH BENEFIT PLAN, A CARRIER, A PRIVATE UTILIZATION REVIEW ORGANIZATION, OR A PBM REQUIRES STEP THERAPY, THE STEP THERAPY MAY ONLY REQUIRE A COVERED PERSON TO TRY ONE PRESCRIPTION DRUG OTHER THAN THE DRUG PRESCRIBED BY THE PROVIDER PRIOR TO PROVIDING COVERAGE TO THE COVERED PERSON FOR THE DRUG PRESCRIBED BY THE COVERED PERSON'S PROVIDER.

(b) NOTWITHSTANDING SUBSECTION (4.5)(a) OF THIS SECTION, IF A COVERED PERSON'S PROVIDER ATTESTS ON A FORM ESTABLISHED BY THE DIVISION THAT ANY OF THE CRITERIA SPECIFIED IN SUBSECTIONS (4)(a)(I) TO (4)(a)(IV) OF THIS SECTION ARE MET, THE CARRIER, PRIVATE UTILIZATION REVIEW ORGANIZATION, OR PBM MUST COVER THE DRUG PRESCRIBED BY THE COVERED PERSON'S PROVIDER WITHOUT REQUIRING STEP THERAPY.

SECTION 2. In Colorado Revised Statutes, 25.5-4-103, **add** (24.5) as follows:

25.5-4-103. Definitions. As used in this article 4 and articles 5 and 6 of this title 25.5, unless the context otherwise requires:

(24.5) "SERIOUS MENTAL ILLNESS" MEANS THE FOLLOWING PSYCHIATRIC ILLNESSES, AS DEFINED BY THE AMERICAN PSYCHIATRIC ASSOCIATION IN THE MOST RECENT VERSION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS:

- (a) BIPOLAR DISORDERS (HYPOMANIC, MANIC, DEPRESSIVE, AND MIXED);
- (b) DEPRESSION IN CHILDHOOD AND ADOLESCENCE;
- (c) MAJOR DEPRESSIVE DISORDERS (SINGLE EPISODE OR RECURRENT);
- (d) OBSESSIVE-COMPULSIVE DISORDERS;
- (e) PARANOID AND OTHER PSYCHOTIC DISORDERS;
- (f) SCHIZOAFFECTIVE DISORDERS (BIPOLAR OR DEPRESSIVE); AND
- (g) SCHIZOPHRENIA.

SECTION 3. In Colorado Revised Statutes, **add** 25.5-5-516 as follows:

25.5-5-516. Serious mental illness - prescribed drugs. NOTWITHSTANDING ANY PROVISIONS OF THIS PART 5 TO THE CONTRARY, AND SUBJECT TO ANY NECESSARY FEDERAL AUTHORIZATION, THE STATE BOARD SHALL REQUIRE A REVIEW FOR COVERAGE OF A NEW DRUG APPROVED BY THE FEDERAL FOOD AND DRUG

ADMINISTRATION FOR A SERIOUS MENTAL ILLNESS WITHIN NINETY DAYS AFTER THE APPROVAL OF THE DRUG.

SECTION 4. Appropriation. (1) For the 2023-24 state fiscal year, \$53,117 is appropriated to the department of health care policy and financing for use by the executive director's office. This appropriation is from the general fund. To implement this act, the office may use this appropriation as follows:

(a) \$49,242 for personal services, which amount is based on an assumption that the office will require an additional 0.8 FTE; and

(b) \$3,875 for operating expenses.

(2) For the 2023-24 state fiscal year, the general assembly anticipates that the department of health care policy and financing will receive \$53,117 in federal funds to implement this act, which amount is subject to the "(I)" notation as defined in the annual general appropriation act for the same fiscal year. The appropriation in subsection (1) of this section is based on the assumption that the department will receive this amount of federal funds to be used as follows:

(a) \$49,242 for use by the executive director's office for personal services; and

(b) \$3,875 for use by the executive director's office for operating expenses.

SECTION 5. Act subject to petition - effective date. Section 1 of this act takes effect January 1, 2025, and the remainder of this act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor; except that section 1 of this act takes effect January 1, 2025.

Approved: June 6, 2023