

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 808
Health

(Delegate S. Johnson)

Maryland Medical Assistance Program - Step Therapy, Fail-First Protocols, and
Prior Authorization - Prescription Drugs to Treat Serious Mental Illness

This bill prohibits Medicaid, beginning July 1, 2026, from applying a prior authorization requirement, fail-first protocol, or step therapy protocol for a prescription drug used to treat a diagnosis of specified mental health conditions. A prior authorization requirement may be imposed if required under specified federal law. **The bill takes effect July 1, 2026, and terminates June 30, 2029.**

Fiscal Summary

State Effect: Medicaid expenditures increase by a significant amount (50% general funds, 50% federal funds) in FY 2027 through 2029, as discussed below; federal fund revenues increase correspondingly. **This bill increases the cost of an entitlement program in FY 2027 through 2029.**

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: A prior authorization requirement, fail-first protocol, or step therapy protocol may not be imposed for a prescription drug used to treat a diagnosis of (1) bipolar disorder; (2) schizophrenia; (3) major depression; (4) post-traumatic stress disorder (PTSD); or (5) a medication-induced movement disorder associated with the treatment of a serious mental illness. A prior authorization requirement may be applied if required under 42 U.S.C. § 1396(a) (State plans for medical assistance).

Current Law: Under § 15-103 of the Health-General Article, a Medicaid managed care organization (MCO) may not apply a prior authorization requirement for a prescription drug used as postexposure prophylaxis for the prevention of HIV if the prescription drug is prescribed for use in accordance with Centers for Disease Control and Prevention guidelines.

State Fiscal Effect: Behavioral health drugs associated with the treatment of a serious mental illness, including those used to treat bipolar disorder, schizophrenia, major depression, and PTSD, are carved out of the Medicaid MCO pharmacy benefit, and paid for on a fee-for-service (FFS) basis. Medication-induced motion disorder drugs are covered by both FFS and MCOs. These drugs often have prior authorization requirements.

The Maryland Department of Health (MDH) currently allows for a 30-day emergency supply of atypical antipsychotic drugs not on the preferred drug list to ensure that individuals will not have a gap in their medications while prior authorization issues are being resolved. In addition, MDH also has a policy in place to ensure that individuals who have been on a prescribed drug before they enroll in Maryland Medicaid are able to receive a supply of that drug while their prescription undergoes the prior authorization process.

Many drugs used primarily for serious mental health diagnoses are also prescribed for other conditions or off-label use. At this time, prescriptions as presented to the pharmacy do not include diagnosis, and this information is not otherwise readily available at the time a prescription is filled. To implement the bill, MDH advises that it would need to eliminate all prior authorization requirements from these classes of drugs so that, whenever such a drug is prescribed, it would automatically be authorized. MDH advises that this will result in an increase in the number of prescriptions being filled and, accordingly, increased Medicaid expenditures.

By removing step therapy, fail-first, and prior authorization for specified drugs, MDH anticipates that utilization will shift from generic to brand-name drugs or from lower net cost brand-name drugs to higher net cost brand-name drugs, increasing the overall cost per prescription. MDH also anticipates a decrease in supplemental rebates as manufacturers will no longer have an incentive to offer such rebates to have their brand-name drugs included on the Medicaid preferred drug list. Receipt of fewer supplemental rebates results in higher net expenditures for Medicaid prescription drugs.

An estimated 479,411 Medicaid recipients (including 426,386 adults) have been diagnosed with one of the conditions specified in the bill. Total net costs for Medicaid for prescription drugs used to treat those diagnoses are \$81.2 million per year (or an estimated \$72.2 million for adults).

Under the bill, MDH projects significant cost increases as discussed above (an estimated \$120.1 million in total funds in fiscal 2027). This does not reflect any costs associated with movement disorder medications. Thus, MDH expenditures increase by a significant but indeterminate amount (50% general funds/50% federal funds) in fiscal 2027 through 2029 to comply with the bill. Federal fund revenues increase correspondingly. Expenditures may be offset by savings from reduced delays in treatment and reduced medical costs such as provider visits and hospitalizations.

MDH additionally advises that the federal Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act requires states to implement claims review processes for individuals prescribed opioids and antipsychotics. MDH's current prior authorization policies comply with the SUPPORT Act. MDH notes that the bill may impact the State's compliance, putting federal matching dollars at risk.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 111 and HB 382 of 2025, and SB 990 and HB 1423 of 2024.

Designated Cross File: SB 490 (Senator Lam) - Finance.

Information Source(s): Maryland Department of Health; Department of Legislative Services

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sj/ljm

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