Maryland
DEPARTMENT OF HEALTH
Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

January 29, 2025

The Honorable Pamela Beidle
Chair, Senate Finance Committee
3 East Miller Senate Office Building
Annapolis, MD 21401-1991

RE: Senate Bill 111 – Maryland Medical Assistance Program and Health Insurance – Step Therapy, Fail-First Protocols, and Prior Authorization- Prescription Drugs to Treat Serious Mental Illness – Letter of Opposition

Dear Chair Beidle and Committee Members:

The Maryland Department of Health (Department) respectfully submits this letter of opposition for Senate Bill (SB) 111 - Maryland Medical Assistance Program and Health Insurance – Step Therapy, Fail-First Protocols, and Prior Authorization – Prescription to Treat Serious Mental Illness. SB 111 prohibits prior authorization requirements for adults (18+), fail-first protocols, or step therapy protocol for a prescription drug used to treat a participant's diagnosis of bipolar disorder; schizophrenia; major depressive disorder; post-traumatic stress disorder; or a medication-induced movement disorder associated with the treatment of a serious mental illness. Additionally, SB 111 includes a reporting requirement for Maryland Medicaid.

SB 111 will result in a significant financial impact to the Department. Overall, the implementation of SB 111 would require $579.3 million in total funds ($289.7 million federal funds, $289.7 million State general funds) if implemented over the next five fiscal years, amounting to $111.3 million or more annually ($55.7 million federal funds, $55.7 million State general funds). The Department understands that the uncodified language in Section 3 could potentially abrogate the bill after April 30, 2027, however the initial fiscal impacts would still be significant.

The Department anticipates that the prohibition of prior authorization, step therapy, or fail-first protocol would lead to a shift in the utilization of medications within these four classes from generic to brand name drugs, or from brand name drugs with a lower net cost to other brand name drugs with a higher net cost, with a significant increase in the cost per prescription. Medicaid also anticipates a decrease in revenue from supplemental rebates as manufacturers will no longer have the incentive to offer supplemental rebates to have their brand-name drugs included on the preferred drug list. Removing the prior authorization requirements would also pose operational challenges to Medicaid, as prescriptions do not include diagnosis information, and so a given drug cannot be authorized for only certain conditions. Therefore, Medicaid would

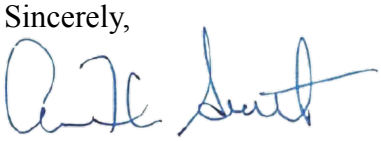
have to authorize the prescription whenever these classes of drugs are prescribed, leading to an increase in the number of prescriptions being filled, and in the cost to Medicaid.

The Department further notes that the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act[1] (Public Law 115-217) passed in 2018 requires states to implement claims review processes for individuals prescribed opioids and antipsychotics. On March 9, 2024, President Biden signed into law the Consolidated Appropriations Act, 2024 (P.L. 118-42). The Consolidated Appropriations Act, 2024 (CAA 2024) includes a number of Medicaid and Children's Health Insurance Program (CHIP) provisions related to mental health and substance use disorder (SUD) care and coverage including provisions extending and expanding policies from the 2018 SUPPORT Act. Specifically, Section 203 requires monitoring and certain managing of antipsychotic medication for adults over 18 years of age receiving home-and-community-based services and residing in institutional care settings (ex. nursing homes) starting in March 2026. The changes required by SB 111 may impact the State's compliance with the SUPPORT Act, putting federal matching dollars at risk.

To help facilitate access to these critical drugs, the Department has other policies in place to help individuals receive prescriptions when certain situations or emergencies arise. First, as stated in the Code of Maryland Regulations (COMAR), the Department allows for a 30-day emergency supply of atypical antipsychotic drugs not on the preferred drug list (PDL).[2] This ensures individuals will not have a gap in their medications while prior authorization issues are being resolved. In addition, the Department has a grandfather policy[3] in place to ensure that individuals who have been on the prescribed drug before they enroll in Maryland Medicaid are able to receive a supply while their prescription undergoes the prior authorization process, preventing a lapse in coverage.

If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director of Governmental Affairs at sarah.case-herron@maryland.gov.

Sincerely,



Laura Herrera Scott, M.D., M.P.H.
Secretary

[1] https://www.govinfo.gov/content/pkg/PLAW-115publ271/pdf/PLAW-115publ271.pdf
[2] https://www.govinfo.gov/content/pkg/PLAW-115publ271/pdf/PLAW-115publ271.pdf
https://dsd.maryland.gov/regulations/Pages/10.09.03.06.aspx
[3] https://health.maryland.gov/mmcp/pap/docs/Antipsychotic%20Review%20Programs/Tier%202%20%20and%20%20NPD%20Clinical%20Criteria.pdf