

Chair Bagnall, Vice Chair Cullison, and distinguished members of the Health Committee,

The National Alliance on Mental Illness (NAMI)-Maryland respectfully requests a favorable report on HB808.

NAMI Maryland and our 11 local affiliates across the state represent a network of more than 58,000 families, individuals, community-based organizations, and service providers. We are a 501(c)(3) non-profit dedicated to providing education, support, and advocacy for people living with mental illnesses, their families, and the wider community.

NAMI Maryland believes that all people with mental health conditions deserve access to effective medication and treatment options. Therefore, we work to ensure open access to psychiatric medication and strongly oppose fail first protocols, or what the health insurance industry calls “step therapy,” in Maryland’s laws and policies. HB808 takes an important step towards removing a barrier to treatment by prohibiting the use of fail first protocols for Medicaid enrollees who are living with serious mental illness.

Fail First Protocols Harm People Living with Serious Mental Illness

Mental health medications affect people in different ways, including varying levels of effectiveness and different side effects. Because of this, it is important that a person can access the medication that works best for them. Medication decisions should be carefully considered by a healthcare provider who has both extensive knowledge of the patient and available medication options.

Health insurers often require that patients demonstrate unsuccessful treatment on one or more insurer-preferred medications before they receive coverage for the medication that their prescribing healthcare provider recommends. Those patients must first fail on one or more medication before they can “step up” to another. Fail first protocols result in patients not being able to access the treatments they need in a timely manner.

There are an estimated 1.4 million adults in Maryland with a mental health condition and at least 375,000 adults in Maryland living with serious mental illness.¹ In that later population especially, fail first protocols are a danger to the health and well-being of the person taking medication, and result in worsening of symptoms and undermining the decisions made between individuals and their health care providers. Patients subjected to fail first protocols are associated with “4.7 times greater odds of a medication access or continuity problem.”² Several studies show that policies like fail first/step therapy can lead to higher healthcare costs and delays in stabilizing patients, especially people with serious mental illness.³

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Lack of access to necessary medication and treatment can lead to prolonged and more serious symptoms. Under SB490, individuals diagnosed with serious mental illness would be exempt from fail-first protocols for medications used to treat those conditions. Untreated or inadequately treated serious mental health conditions can result in unnecessary disability, emergency department visits and hospitalizations, unemployment, substance abuse, being unhoused or unsheltered, criminal justice involvement, and increased risk of suicide.

SB490 Should Not Increase Overall Costs

Twenty-four states now have laws similar to SB490.⁴ Michigan banned fail first protocols for mental health medications in 2004. A recent study⁵ compared Michigan Medicaid patients with serious mental illness (SMI) to several other states, and found:

- People who use antipsychotic medications in Michigan were *less likely to experience SMI-related hospitalizations* than those in every other state included in the study (California, Colorado, Florida, Illinois, and Wisconsin).
- *Hospital length of stay was lower* in Michigan than most states.
- *Total cost of treating SMI was lower* in Michigan than four of those five states.

The Michigan Department of Health and Human Services issued a workgroup report⁶ in 2021 analyzing the impacts of disallowing fail first protocols for medications. Its findings included:

- “Michigan’s [ban on fail first protocols], in place since 2004, *has not resulted in prescribers flooding Medicaid with claims for brand drugs.*” (85-87% in FY17).
- “These data suggest that, if psychotropic medication costs strike some as ‘too great,’ it is because mental illness is so highly common in Medicaid. Ending the [fail first prohibition] to eliminate the roughly 14% of prescriptions for brand products will not likely save major money. *Curtailing access to psychotropics would not necessarily result in savings and could actually negatively impact quality outcomes for our general population and increase costs.* The workgroup does not recommend curtailing access to appropriately prescribed psychotropic medication.”
- “The group does not believe prior authorization tied to costs, and often done in conjunction with step therapy, is good or effective for persons with serious mental illness, their families, Michigan communities including payers, or the providers who strive to serve them.”

NAMI Maryland does not believe that results in our state would be any different than those findings in Michigan. SB490 will save lives and will not see increased costs in state funds.

Maryland’s current practice of allowing fail first protocols hurts patients—their condition may worsen, or they may suffer unnecessarily in the process of failing Medicaid preferred treatments. For these reasons, we urge a favorable report on HB808.

¹ Extrapolated from prevalence data at: “Mental Illness,” National Institute of Mental Health, https://www.nimh.nih.gov/health/statistics/mental-illness#part_2541. SB490 includes the diagnoses of bipolar disorder, schizophrenia, major depression, post-traumatic stress disorder, and a medication-induced movement disorder associated with the treatment of a serious mental illness.

² Joyce C. West et al., Medicaid Prescription Drug Policies and Medication Access and Continuity: Findings From Ten States, 60 *Psychiatric Services* (2009).

³ See e.g., Seabury, Seth A., et al., “Patient Outcomes and Cost Effects of Medicaid Formulary Restrictions on Antidepressants,” *Forum for Health Economics and Policy* (2014). Goldman, D. P., et al. (2014). Medicaid prior authorization policies and imprisonment among patients with schizophrenia. *The American journal of managed care*, 20(7), 577–586. Baser, O., & Waters, H. C., et al. (2024, April 17). Open access to mental health medication: impact to state medicaid budgets [Poster Presentation]. AMCP 2024 National Meeting New Orleans, Louisiana, USA. West, J.C., et al. (2015). “Medicaid Prescription Drug Policies and Medication Access and Continuity: Findings from Ten States.” *Psychiatric Services*, vol. 60, no. 5, pp. 601–610.

⁴ The following states have laws either banning prior authorization and fail first protocols for mental health medications, or for specific conditions: Delaware, Connecticut, Hawaii, Michigan, Maine, Oregon, Alabama, Arkansas, Colorado, Florida, Georgia, Kansas, Louisiana, Minnesota, Missouri, Montana, North Carolina, North Dakota, Nebraska, New Mexico, Nevada, Ohio, Texas, and Utah.

⁵ Patel, Rashmi, et al., “Open Access to Antipsychotics in State Medicaid Programs: Effect on Healthcare Resource Utilization and Costs Among Patients with Serious Mental Illness,” *Journal of Health Economics and Outcomes Research*, 2025. <https://jheor.org/article/137909-open-access-to-antipsychotics-in-state-medicaid-programs-effect-on-healthcare-resource-utilization-and-costs-among-patients-with-serious-mental-illne>.

⁶ Workgroup Recommendations, Michigan Department of Health & Human Services, 2021.

https://www.michigan.gov/-/media/Project/Websites/mdhhs/Folder4/Folder36/Folder3/Folder136/Folder2/Folder236/Folder1/Folder336/Section_1867-2.pdf?rev=5bc7253e77b949d0a669667f5c20539f.