

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

292I0733

## HOUSE ENGROSSED NO. **HB 1277** - 02/22/2003

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Van Etten, Christensen, Cradduck, Hunhoff, Kraus, McCoy, Miles, and Rave and Senators Brown and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to create a pharmaceutical prior authorization program for  
2 eligible individuals receiving medical assistance pursuant to chapter 28-6.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The Legislature recognizes that outpatient prescription drugs are an essential  
5 component of patient care and, as a health benefits payer under the state's medical assistance  
6 program pursuant to chapter 28-6, the Legislature directs the Department of Social Services to  
7 establish a prior authorization program to ensure that beneficiaries have access to medically  
8 necessary medicines in a clinically appropriate and cost-effective manner.

9 Section 2. A Medicaid Pharmaceutical and Therapeutics Committee is established within the  
10 Department of Social Services for the purpose of developing a pharmaceutical prior  
11 authorization program. The Medicaid Pharmaceutical and Therapeutics Committee shall consist  
12 of ten members appointed by the Governor. Five members shall be physicians licensed under  
13 chapter 36-4 and five members shall be pharmacists licensed under chapter 36-11. The members  
14 shall be appointed to serve for terms of three years. Members may be appointed to more than one  
15 term. The department shall serve as staff for the committee. The Governor shall ensure that at



1 least some of the members of the Medicaid Pharmaceutical and Therapeutics Committee  
2 represent medicaid participating physicians and pharmacies serving all segments of the medicaid  
3 population, and have experience in either developing or practicing under a preferred drug  
4 formulary. Committee members shall select a chair and a vice chair each year from the committee  
5 membership.

6 Section 3. The Medicaid Pharmaceutical and Therapeutics Committee shall meet at least  
7 three times each year in person and, in addition, the committee may meet as needed via  
8 teleconference or electronically. The chair shall arrange for meetings and the Department of  
9 Social Services shall mail out agendas and record committee minutes. Any decision of the  
10 committee requires an affirmative majority vote of the committee members. Any agenda item  
11 shall be requested thirty days prior to the scheduled committee meeting at which it will be heard.  
12 Any person not a member of the committee may attend a committee meeting at the discretion  
13 of the chair. Each member of the committee may receive per diem compensation and allowable  
14 expense reimbursement pursuant to § 4-7-10.4.

15 Section 4. The Department of Social Services shall give notice of its intent to propose prior  
16 authorization requirements for prescription drugs and hold a public meeting regarding whether  
17 a certain drug or class of drugs shall require prior authorization. The department shall provide  
18 notice of the meeting at least thirty days prior to the meeting. Any interested party may provide  
19 information or recommendations, or both, related to the prior authorization of a drug.

20 Section 5. The Medicaid Pharmaceutical and Therapeutics Committee shall develop its  
21 recommendations for the prior authorization program by considering the clinical efficacy, safety,  
22 and cost-effectiveness of a product.

23 Section 6. The Medicaid Pharmaceutical and Therapeutics Committee shall:

24 (1) Analyze and consider the recommendations of the interested parties and the potential

1 impact of a decision to require prior authorization of a drug on the clinical care likely  
2 to be received by individuals covered under chapter 28-6;

- 3 (2) Make recommendations to the Department of Social Services for the establishment  
4 and maintenance of an outpatient prescription drug prior authorization program; and
- 5 (3) Review on at least an annual basis whether drugs placed on prior authorization are to  
6 remain on prior authorization.

7 The department may accept or reject the recommendations provided by the committee and  
8 retains the authority to require prior authorization. The department shall post the list of drugs  
9 requiring prior authorization, together with any limits on coverage, on the department's website.

10 Section 7. The prior authorization program shall meet the following conditions:

- 11 (1) The program shall provide telephone, facsimile, or other electronically transmitted  
12 approval or denial within twenty-four hours after receipt of the prior authorization  
13 request;
- 14 (2) In an emergency situation, including a situation in which a response to a prior  
15 authorization request is unavailable, a seventy-two hour supply of the prescribed drug  
16 shall be dispensed and paid for by the medical assistance program or, at the discretion  
17 of the department, a supply greater than seventy-two hours that will assure a  
18 minimum effective duration of therapy for an acute intervention;
- 19 (3) Authorization shall be granted if the drug is prescribed for a medically accepted use  
20 supported by either the compendia, approved product labeling, or peer-reviewed  
21 literature unless there is a therapeutically equivalent drug that is available without  
22 prior authorization; and
- 23 (4) The department shall consult with prescribers to develop a streamlined process for the  
24 prescriber to furnish any documentation required to support a prior authorization

1 request, including the name, title, address, and telephone number of the prescriber  
2 making the request, date of the request, the product name of the requested drug, a  
3 description of the circumstances and basis for the request, and whether the request is  
4 an emergency.

5 Section 8. Nothing in this Act imposes any restrictions or limitations on the availability of  
6 medications prescribed for the treatment of mental illness.