

## **Medicaid Drug Utilization Review Board; Donor Human Breast Milk; Senate Sub. for HB 2149**

**Senate Sub. for HB 2149** requires the Kansas Department of Health and Environment (KDHE) to reimburse “medical care facilities,” as defined in the bill, for donor human breast milk (milk) provided to a recipient of medical assistance under the Kansas Program of Medical Assistance in certain situations.

The bill also amends the procedures regarding restrictions of patients’ access to any new prescription-only drug under the Kansas Medicaid Program and establishes meeting requirements for the Medicaid Drug Utilization Review Board (Board). Further, the bill allows prior authorization or other restrictions on medications used to treat mental illness to be imposed on Medicaid recipients for medications subject to guidelines developed by the Board in accordance with provisions of the bill; establishes instances not to be construed as restrictions; provides for the development of guidelines; establishes requirements for Board review of medications used to treat mental illness available for use before and after July 1, 2015; and creates a Mental Health Medication Advisory Committee (Committee), outlining Committee membership and appointments, meeting frequency, and member compensation.

### ***Reimbursement for Prescribed Human Breast Milk***

Reimbursement is required for prescribed milk provided to infant recipients of medical assistance if the infant is under three months of age, critically ill, and in the neonatal intensive care unit of a hospital as long as the following conditions are met:

- The milk was ordered by a person licensed to practice medicine and surgery;
- KDHE determined the milk was medically necessary for the infant;
- An informed consent form indicating the risks and benefits of using banked milk was signed and dated by the infant’s parent or legal guardian; and
- The milk was obtained from a milk bank that meets the quality requirements established by KDHE.

The KDHE is required to utilize an electronic prior authorization system that uses the best medical evidence and care and treatment guidelines consistent with national standards to determine medical necessity. In addition, the KDHE is required to promulgate rules and regulations deemed necessary to administer the provisions regarding reimbursement for prescribed milk prior to July 1, 2016.

### ***Access to New Prescription-only Drugs under the Kansas Medicaid Program***

The Secretary of Health and Environment (Secretary) is allowed to implement prior authorization of any new prescription-only drugs until such drugs are reviewed by the Board at its next scheduled meeting. During the period before the new drugs are reviewed by the Board,

the drugs are approved for use as indicated in package insert guidelines approved by the federal Food and Drug Administration and clinically reputable compendia, as approved by the Secretary.

Under prior law, the Secretary was prohibited from restricting patient access to prescription-only drugs through a program of prior authorization or a restrictive formulary, except by rules and regulations. The requirement that these proposed rules and regulations be submitted to the Board for written comment is eliminated.

### ***Board Meeting Requirements***

The Board is required to meet at least quarterly. The meetings are open to the public and provide an opportunity for public comments. The Board is required to post notice of its meetings at least 14 business days before any scheduled meeting.

### ***Prior Authorization or Other Restrictions on Mental Health Medications for Medicaid Recipients***

The bill provides no requirements for prior authorization or other restrictions on medications used to treat mental illnesses may be imposed on Medicaid recipients, except on medications subject to guidelines developed by the Board in accordance with provisions of the bill.

Prior law prohibited requirements for prior authorization or other restrictions on medications used to treat individuals with mental illnesses who are Medicaid recipients. Medications in the previous statute available without prior authorization or other restrictions included atypical medications, conventional antipsychotic medications, and other medications used for the treatment of mental illness.

The bill specifies the following are not to be construed as restrictions:

- Any alert to a pharmacist that does not deny the claim and can be overridden by the pharmacist;
- Prescriber education activities; or
- Consolidation of dosing regimens to equivalent doses.

### ***Adoption of Guidelines and Medication Review***

The Committee is required to provide the Board with recommendations for the development of guidelines. With regard to the recommendations from the Committee, the Board has the following options:

- Accept the recommendations in whole, to become effective immediately upon approval; or

- Reject the recommendations in whole, requiring referral back to the Committee for further consideration.

The Board is prohibited from adopting medication guidelines related to mental health medications without recommendations made by the Committee.

Prior to July 1, 2016, the Board is required to review all medications used to treat mental illness available for use on July 1, 2015. The Board is required to review all medications used to treat mental illness that do not exist on July 1, 2015, but are later developed or believed to be effective in the treatment of mental illness within six months of presentation to the Board.

### ***Committee Appointment, Meetings, and Compensation***

The bill creates the Committee, with members appointed by the Secretary. Committee membership is as follows:

- The Secretary or Secretary's designee, to serve as chairperson;
- Four persons licensed to practice medicine and surgery with board certification in psychiatry:
  - Two nominated by the Kansas Psychiatric Society, with one specializing in geriatric mental health; and
  - Two nominated by the Association of Community Mental Health Centers of Kansas, with one specializing in pediatric mental health;
- Two pharmacists nominated by the Kansas Pharmacy Association;
- One person licensed to practice medicine and surgery nominated by the Kansas Medical Society; and
- One advanced practice registered nurse engaged in a role of mental health nominated by the Kansas State Nurses Association.

Nominating bodies provide two nominees for each position for which they provide nominations to the Secretary, who selects the appointee from the provided nominees.

The Committee meets upon the request of the Committee chairperson, but at least once each quarter. Committee members receive compensation and expenses as provided in KSA 75-3223. Mileage and all other applicable expenses are paid to members attending Committee meetings if such expenses are consistent with policies established by the Secretary.