SENATE BILL NO. 317

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING HEALTH INSURANCE ISSUERS FROM PERFORMING PRIOR AUTHORIZATION ON PSYCHIATRIC DRUGS THAT ARE IN SHORTAGE OR DISCONTINUED; AND AMENDING SECTION 33-32-221, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-32-221, MCA, is amended to read:

"**33-32-221. Prior authorization requirements.** (1) A health insurance issuer may not perform prior authorization on benefits for:

(a) any generic prescription drug that is not listed within any of the schedules of controlled substances found at 21 CFR 1308.11 through 21 CFR 1308.15 or the schedules of controlled substances found in Title 50, chapter 32, after a covered person has been prescribed the covered drug at the same quantity without interruption for 6 months;

(b) any prescription drug or drugs, generic or brand name, on the grounds of therapeutic duplication for the same drug if the covered person has already been subject to prior authorization on the grounds of therapeutic duplication for the same dosage of the prescription drug or drugs and coverage of the prescription drug or drugs was approved;

(c) any prescription drug, generic or brand name, solely because the dosage of the medication for the covered person has been adjusted by the prescriber of the prescription drug, as long as the dosage is within the dosage approved by the food and drug administration or is consistent with clinical dosing for the medication; ~~or~~

(d) any prescription drug, generic or brand name, that is a long-acting injectable antipsychotic; or

~~(e) any prescription drug, generic or brand name, that is designated as currently in shortage within the therapeutic category of psychiatry on the current and resolved drug shortages and discontinuations list~~

~~maintained by the United States food and drug administration.~~

(e) any prescription drug, generic or brand name, that is designated as in shortage pursuant to subsection (3).

(2) Any adverse determination for a prescription drug made during prior authorization by a health insurance issuer must be made by a physician whose specialty focuses on the diagnosis and treatment of the condition for which the prescription drug was prescribed to treat, provided that prior authorization that does not result in an adverse determination does not require the involvement of a physician on the part of a health insurance issuer.

(3) (a) For the purposes of subsection (1)(e), the list of prescription drugs within the therapeutic category of psychiatry that are in shortage on April 1, July 1, October 1, or January 1 must be determined directly from the official shortage list published by the United States food and drug administration on those dates. The quarterly static list remains in effect until the next quarterly date.

(b) A manufacturer of a prescription drug subject to subsection (1)(e) may not engage in predatory pricing or marketing related to any shortage described in this section. A violation of this subsection (3)(b) is subject to enforcement and penalty under Title 30, chapter 14, part 1."

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