

**HOUSE BILL NO. 1385**

Introduced by

Representatives Weisz, Nelson, Pollert

Senators Erbele, Nething

1 A BILL for an Act to amend and reenact section 50-24.6-04 of the North Dakota Century Code,  
2 relating to the prior authorization program.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 50-24.6-04 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **50-24.6-04. (~~Effective through July 31, 2009~~) Prior authorization program.**

- 7 1. The department shall develop and implement a prior authorization program that  
8 meets the requirements of 42 U.S.C. 1396r-8(d) to determine coverage of drug  
9 products when a medical assistance recipient's health care provider prescribes a  
10 drug that is identified as requiring prior authorization. Authorization must be  
11 granted for provision of the drug if:
- 12 a. The drug not requiring prior authorization has not been effective, or with  
13 reasonable certainty is not expected to be effective, in treating the recipient's  
14 condition;
  - 15 b. The drug not requiring prior authorization causes or is reasonably expected to  
16 cause adverse or harmful reactions to the health of the recipient; or
  - 17 c. The drug is prescribed for a medically accepted use supported by a  
18 compendium or by approved product labeling unless there is a therapeutically  
19 equivalent drug that is available without prior authorization.
- 20 2. For any drug placed on the prior authorization program, the department shall  
21 provide medical and clinical criteria, cost information, and utilization data to the  
22 drug use review board for review and consideration. The board may consider  
23 department data and information from other sources to make a decision about  
24 placement of the drug on prior authorization.

- 1           3. Except for quantity limits that may be no less than the pharmaceutical  
2           manufacturer's package insert or AB-rated generic equivalent drug for which the  
3           cost to the state postrebate is less than the brand name drugs, in the aggregate,  
4           the department may not prior authorize or otherwise restrict single-source or brand  
5           name antipsychotic, antidepressant, or other medications used to treat mental  
6           illnesses, such as schizophrenia, depression, or bipolar disorder, and drugs  
7           prescribed for the treatment of:
- 8           a. Acquired immune deficiency syndrome or human immunodeficiency virus; and  
9           b. Cancer.
- 10          4. The department may use contractors to collect and analyze the documentation  
11          required under this section and to facilitate the prior authorization program.
- 12          5. The department shall consult with the board in the course of adopting rules to  
13          implement the prior authorization program. The rules must:
- 14          a. Establish policies and procedures necessary to implement the prior  
15          authorization program.
- 16          b. Develop a process that allows prescribers to furnish documentation required  
17          to obtain approval for a drug without interfering with patient care activities.
- 18          c. Allow the board to establish panels of physicians and pharmacists which  
19          provide expert guidance and recommendations to the board in considering  
20          specific drugs or therapeutic classes of drugs to be included in the prior  
21          authorization program.

22          **~~(Effective after July 31, 2009) Prior authorization program.~~**

- 23          ~~4. The department shall develop and implement a prior authorization program that~~  
24          ~~meets the requirements of 42 U.S.C. 1396r-8(d) to determine coverage of drug~~  
25          ~~products when a medical assistance recipient's health care provider prescribes a~~  
26          ~~drug that is identified as requiring prior authorization. Authorization must be~~  
27          ~~granted for provision of the drug if:~~
- 28          ~~a. The drug not requiring prior authorization has not been effective, or with~~  
29          ~~reasonable certainty is not expected to be effective, in treating the recipient's~~  
30          ~~condition;~~

- 1           b. ~~The drug not requiring prior authorization causes or is reasonably expected to~~  
2           ~~cause adverse or harmful reactions to the health of the recipient; or~~
- 3           e. ~~The drug is prescribed for a medically accepted use supported by a~~  
4           ~~compendium or by approved product labeling unless there is a therapeutically~~  
5           ~~equivalent drug that is available without prior authorization.~~
- 6           2. ~~For any drug placed on the prior authorization program, the department shall~~  
7           ~~provide medical and clinical criteria, cost information, and utilization data to the~~  
8           ~~drug use review board for review and consideration. The board may consider~~  
9           ~~department data and information from other sources to make a decision about~~  
10           ~~placement of the drug on prior authorization.~~
- 11           3. ~~The department may use contractors to collect and analyze the documentation~~  
12           ~~required under this section and to facilitate the prior authorization program.~~
- 13           4. ~~The department shall consult with the board in the course of adopting rules to~~  
14           ~~implement the prior authorization program. The rules must:~~
- 15           a. ~~Establish policies and procedures necessary to implement the prior~~  
16           ~~authorization program.~~
- 17           b. ~~Develop a process that allows prescribers to furnish documentation required~~  
18           ~~to obtain approval for a drug without interfering with patient care activities.~~
- 19           e. ~~Allow the board to establish panels of physicians and pharmacists which~~  
20           ~~provide expert guidance and recommendations to the board in considering~~  
21           ~~specific drugs or therapeutic classes of drugs to be included in the prior~~  
22           ~~authorization program.~~