

Representative Steve Eliason proposes the following substitute bill:

PSYCHOTROPIC MEDICATION OVERSIGHT PILOT

PROGRAM AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends provisions related to the psychotropic medication oversight pilot program.

Highlighted Provisions:

This bill:

- ▶ removes a repeal date for the psychotropic medication oversight pilot program (program);
- ▶ amends provisions to make the program permanent;
- ▶ adds minors committed to the Division of Juvenile Justice and Youth Services to the program;
- ▶ moves operation of the program from the Division of Child and Family Services to the Division of Integrated Healthcare (division);
- ▶ addresses the membership of the program's oversight team;
- ▶ amends provisions regarding the duties of the oversight team, caseworkers, and case managers;
- ▶ adds certain reporting requirements for the division and the oversight team;
- ▶ requires the Department of Health and Human Services to pay standard Medicaid



rates for outpatient behavioral health services for children in foster care and minors committed to the Division of Juvenile Justice and Youth Services; and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-280, as enacted by Laws of Utah 2022, Chapter 335

80-2-503.5, as last amended by Laws of Utah 2023, Chapter 309

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63I-1-280** is amended to read:

63I-1-280. Repeal dates: Title 80.

[Section **80-2-503.5** is repealed July 1, 2024.]

Section 2. Section **80-2-503.5** is amended to read:

80-2-503.5. Psychotropic medication oversight program -- Behavioral health service rates for children in foster care.

(1) As used in this section[;]:

(a) "Advanced practice registered nurse" means an individual licensed to practice as an advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.

(b) "Division" means the Division of Integrated Healthcare created in Section [26B-1-204](#).

(c) "HIPAA" means 45 C.F.R. Parts 160, 162, and 164, Health Insurance Portability and Accountability Act of 1996, as amended.

(d) "Physician assistant" means an individual licensed to practice as a physician assistant in this state under Title 58, Chapter 70a, Utah Physician Assistant Act.

(e) ["psychotropic"] "Psychotropic medication" means medication prescribed to affect or alter thought processes, mood, or behavior, including antipsychotic, antidepressant, anxiolytic, or behavior medication.

(f) "Qualifying minor" means a minor committed to the Division of Juvenile Justice and Youth Services under Section 80-6-703.

(2) The division shall, through contract with the [~~Department of Health and Human Services~~] University of Utah or another qualified third party, [~~establish and~~] operate a psychotropic medication oversight [~~pilot~~] program for children in foster care and qualifying minors to ensure that [~~foster children are being~~] each foster child and qualifying minor is prescribed psychotropic medication consistent with the foster [~~children's~~] child's or qualifying minor's needs and consistent with clinical best practices.

(3) The division shall [~~establish~~] operate an oversight team to manage the psychotropic medication oversight program, composed of at least the following individuals:

(a) a physician assistant with pediatric mental health experience, or an advanced practice registered nurse [~~as defined in Section 58-31b-102,~~] with pediatric mental health experience, contracted with the [~~Department of Health and Human Services~~] division; [and]

(b) a child psychiatrist[:] contracted with the division;

(c) a data analyst contracted with the division; and

(d) an individual with care coordination experience.

(4) The oversight team shall monitor foster children and qualifying minors:

(a) six years old or younger who are being prescribed one or more psychotropic medications; [and]

(b) seven years old or older who are being prescribed two or more psychotropic medications[:]; and

(c) who are prescribed one or more antipsychotic medications.

(5) The division shall establish a business associate agreement with the oversight team by which the oversight team shall, upon request, be given information or records related to the foster child's or qualifying minor's health care history, including psychotropic medication history and mental and behavioral health history, from:

(a) the division's Medicaid pharmacy program;

(b) the department's written and electronic records and databases;

(c) the foster child's current or past caseworker, or the qualifying minor's current or past case manager;

[~~(b)~~] (d) the foster child or qualifying minor; or

88 ~~[(e)]~~ (e) the foster child's or qualifying minor's:

89 (i) current or past health care provider;

90 (ii) natural parents; or

91 (iii) foster parents.

92 (6) The oversight team may review and monitor the following information about a
93 foster child or qualifying minor:

94 (a) the foster child's or qualifying minor's history;

95 (b) the foster child's or qualifying minor's health care, including psychotropic
96 medication history and mental or behavioral health history;

97 (c) whether there are less invasive treatment options available to meet the foster child's
98 or qualifying minor's needs;

99 (d) the dosage or dosage range and appropriateness of the foster child's or qualifying
100 minor's psychotropic medication;

101 (e) the short-term or long-term risks associated with the use of the foster child's or
102 qualifying minor's psychotropic medication; or

103 (f) the reported benefits of the foster child's or qualifying minor's psychotropic
104 medication.

105 (7) (a) ~~[The]~~ On at least a quarterly basis, the oversight team [may] shall:

106 (i) review the medical and mental or behavioral health history for each foster child and
107 qualifying minor overseen by the program;

108 (ii) based on the review under Subsection (7)(a)(i), document the oversight team's
109 findings and recommendations; and

110 (iii) make written recommendations [to the foster child's health care providers]
111 concerning the foster child's or qualifying minor's psychotropic medication [or] and the foster
112 child's or qualifying minor's mental or behavioral health, including any recommendation for
113 psychotherapy treatment.

114 (b) The oversight ~~[team shall provide the]~~ team's recommendations ~~[made]~~ described
115 in Subsection (7)(a) [to the foster child's parent or guardian after discussing the
116 recommendations with the foster child's current health care providers] shall be provided to the
117 foster child's current caseworker or the qualifying minor's current case manager, the foster
118 child's or qualifying minor's parent or guardian, and the foster child's or qualifying minor's

current health care providers, in accordance with rules adopted pursuant to Subsection (8) and in compliance with HIPAA and other relevant state and federal privacy laws.

(c) The member of the oversight team described in Subsection (3)(d) shall:

(i) provide the recommendations described in Subsection (7)(a) in writing and verbally, or as otherwise provided in rules adopted pursuant to Subsection (8), to the foster child's or qualifying minor's current health care providers; and

(ii) on at least a semiannual basis, follow up with the foster child's or qualifying minor's current health care providers to document whether recommendations made by the oversight team have been implemented.

(d) A foster child's caseworker or qualifying minor's case manager shall maintain a confidential record of recommendations provided under Subsection (7)(b).

(8) The division may adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this section, including the rules described in Subsection (7)(b).

(9) The division shall report regarding the psychotropic medication oversight program:

(a) to the Child Welfare Legislative Oversight Panel [~~regarding the psychotropic medication oversight pilot program~~] by October 1 of each even numbered year[-]; and

(b) orally to the Health and Human Services Interim Committee, at least once every two years at or before the October interim meeting.

(10) The oversight team shall report:

(a) quarterly to the division regarding the number of foster children and qualifying minors reviewed and the number of recommendations made; and

(b) annually to the division regarding outcomes for foster children and qualifying minors overseen by the program.

(11) Beginning on July 1, 2024, the department shall pay for outpatient behavioral health services for children in foster care and qualifying minors at a rate no lower than the standard Medicaid fee schedule.

Section 3. Effective date.

This bill takes effect on May 1, 2024.