

SENATE No. 330

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to medicaid prior authorization..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 118E of the General Laws is hereby amended by striking out
2 section 17, as amended by section 24 of chapter 177 of the acts of 2001, and inserting in place
3 thereof the following section: -

4 Section 17. Multiple source drugs listed in the Massachusetts list of interchangeable drug
5 products established pursuant to the provisions of section thirteen of chapter seventeen of the
6 General Laws and regulations adopted thereunder shall not be reimbursable except for the
7 "Massachusetts maximum allowable cost", as defined by regulations of the department, unless
8 the division grants prior authorization based upon the practitioner's assertion to the division that
9 satisfactorily demonstrates that a recipient's medical condition requires the use of a nongeneric
10 drug and unless the practitioner writes on the face of the prescription in his or her own
11 handwriting the words "brand name medically necessary" under the words "no substitution" in a
12 manner consistent with applicable state law; provided that a pharmacist dispensing in accordance
13 with this section shall be exempt from the provisions of the fourth paragraph of section twelve D
14 of chapter one hundred and twelve. A request for prior authorization may be made by telephone

15 or other telecommunication device or in writing. The division shall act within 24 hours of the
16 request. If the request is denied, the practitioner or recipient may appeal as provided for in
17 sections 47 and 48, provided that the board of hearings hold a hearing and render a decision
18 within 90 days of the appeal to the division. The division shall authorize the use of a nongeneric
19 drug as requested by the practitioner during the pendency of the appeal.

20 Notwithstanding the provisions of the first paragraph, prior authorization shall not be
21 required for medications used to treat mental illness, including but not limited to schizophrenia,
22 depression, bipolar disorder, anxiety, or attention deficit disorder and attention deficit
23 hyperactivity disorder. The division shall further make available medications for persons with
24 mental illness, including atypical antipsychotic medications, conventional antipsychotic
25 medications, antidepressants, anticonvulsants, and other medications used for the treatment of
26 mental illness without restriction or without preference for one medication over another or one
27 class of medications over another.”