

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1736

By: Townley

6  
7 COMMITTEE SUBSTITUTE

8 An Act relating to step therapy protocol; defining  
9 terms; requiring health benefit plans to implement a  
10 new process; providing exceptions to step therapy  
11 protocol; requiring information be readily available  
12 on the health benefit plans website; establishing  
13 disposition process for requests; clarifying whom  
14 this act applies to; providing for codification; and  
15 providing for an effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 7330 of Title 63, unless there  
19 is created a duplication in numbering, reads as follows:

20 A. "Health benefit plan" means a plan as defined pursuant to  
21 Section 6060.4 of Title 36 of the Oklahoma Statutes, that provides  
22 coverage for invasive or non-invasive mechanical ventilation to  
23 treat chronic respiratory failure consequent to chronic obstructive  
24 pulmonary disease (CRF-COPD), requiring a step therapy protocol.

B. "Treatment step therapy protocol" means a treatment  
utilization management protocol or program under which a group

1 health plan or health insurance issuer offering group health  
2 insurance coverage of respiratory care treatments requires a  
3 participant or beneficiary to try an alternative, plan-preferred,  
4 treatment and fail on this treatment before the plan or health  
5 insurance issuer approves coverage for the non-preferred therapy  
6 prescribed by the beneficiaries medical provider.

7 C. A health benefit plan shall:

8 1. Implement a clear and transparent process for a participant  
9 or beneficiary, or the prescribing health care provider on behalf of  
10 the participant or beneficiary, with CRF-COPD to request an  
11 exception to such a step therapy protocol, pursuant to subsection B  
12 of this section; and

13 2. Where the participant or beneficiary or prescribing health  
14 care provider's request for an exception to the treatment step  
15 therapy protocols satisfies the criteria and requirements of  
16 subsection D of this section, cover the requested treatment in  
17 accordance with the terms established by the health plan or coverage  
18 for patient cost-sharing rates or amounts at the time of the  
19 participant's or beneficiary's enrollment in the health plan or  
20 health insurance coverage.

21 D. The circumstances requiring an exception to a treatment step  
22 therapy protocol, pursuant to a request under subsection C of this  
23 section, are any of the following:

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1 1. Any treatments otherwise required under the protocol, have  
2 not been shown to be as effective as other available options in the  
3 treatment of the disease or condition or the participant or  
4 beneficiary, when prescribed consistent with clinical indications,  
5 clinical guidelines, or other peer-reviewed evidence;

6 2. Delay of proven effective treatment would lead to severe or  
7 irreversible consequences, and the treatment initially required  
8 under the protocol is reasonably expected to be less effective  
9 based upon the documented physical or mental characteristics of the  
10 participant or beneficiary and the known characteristics of such  
11 treatment;

12 3. Any treatments otherwise required under the protocol are  
13 contraindicated for the participant or beneficiary or have caused,  
14 or are likely to cause, based on clinical, peer-reviewed evidence,  
15 an adverse reaction or other physical harm to the participant or  
16 beneficiary;

17 4. Any treatment otherwise required under the protocol has  
18 prevented, will prevent, or is likely to prevent a participant or  
19 beneficiary from achieving or maintaining reasonable and safe  
20 functional ability in performing occupational responsibilities or  
21 activities of daily living; or

22 5. The patient's disease state is classified as life  
23 threatening.

24 E. The process required by subsection C of this section shall:

1 1. Provide the prescribing health care provider or beneficiary  
2 or designated third-party advocate an opportunity to present such  
3 provider's clinical rational and relevant medical information for  
4 the group health plan or health insurance issuer to evaluate such  
5 request for exception;

6 2. Clearly set forth all required information and the specific  
7 criteria that will be used to determine whether an exception is  
8 warranted, which may require disclosure of the medical history or  
9 other health records of the participant or beneficiary demonstrating  
10 that the participant or beneficiary seeking an exception:

11 a. has tried other qualifying treatments without success,  
12 or

13 b. has received the requested treatment for a clinically  
14 appropriate amount of time to establish stability, in  
15 relation to the condition being treated and guidelines  
16 given by the prescribing physician.

17 Other clinical information that may be relevant to conducting  
18 the exception review may require disclosure.

19 3. Not require the submission of any information or supporting  
20 documentation beyond what is strictly necessary to determine whether  
21 any of the circumstances listed in subsection B of this section  
22 exist.

23 F. The health benefit plan shall make information regarding the  
24 process required under subsection C of this section readily

1 available on the internet website of the group health plan or health  
2 insurance issuer. Such information shall include:

3 1. The requirements for requesting an exception to a treatment  
4 step therapy protocol pursuant to this section; and

5 2. Any forms, supporting information, and contact information,  
6 as appropriate.

7 G. The process required under paragraph 1 of subsection C of  
8 this section, shall provide for the disposition of requests received  
9 under such paragraph in accordance with the following:

10 1. Subject to paragraph 2 of this subsection, not later than  
11 seventy-two (72) hours after receiving an initial exception request,  
12 the plan or issuer shall respond to the requesting prescriber with  
13 either a determination of exception eligibility or a request for  
14 additional required information, strictly necessary to make a  
15 determination of whether the conditions specified in subsection D of  
16 this section are met. The plan or issuer shall respond to the  
17 requesting provider with a determination of exception eligibility no  
18 later than seventy-two (72) hours after receipt of the additional  
19 required information; or

20 2. In the case of a request under circumstances in which the  
21 applicable equipment step therapy protocol may seriously jeopardize  
22 the life or health of the participant or beneficiary, the plan or  
23 issuer shall conduct a review of the request and respond to the  
24 requesting prescriber with either a determination or exception

1 eligibility or a request for additional required information  
2 strictly necessary to make a determination of whether the conditions  
3 specified in subsection D of this section are met, in accordance  
4 with the following:

5 a. if the plan or issuer can make a determination of  
6 exception eligibility without additional information,  
7 such determination shall be made on an expedited  
8 basis, and no later than twenty-four (24) hours after  
9 receipt of such request, or

10 b. if the plan or issuer requires additional information  
11 before making a determination of exception  
12 eligibility, the plan or issuer shall respond to the  
13 requesting provider with a request for such  
14 information within twenty-four (24) hours of the  
15 request for a determination, and shall respond with a  
16 determination of exception eligibility as quickly as  
17 the condition or disease requires, and no later than  
18 twenty-four (24) hours after receipt of the additional  
19 required information.

20 H. This act shall apply with respect to any licensed provider  
21 in the state of Oklahoma that provides coverage of a treatment  
22 pursuant to a policy that meets the definition of treatment step  
23 therapy protocol in subsection B of this section, regardless of  
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1 whether such policy is described by such group health plan or health  
2 insurance coverage as a step therapy protocol.

3 SECTION 2. This act shall become effective November 1, 2023.

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