

1 **SENATE FLOOR VERSION**

2 April 4, 2023

3 ENGROSSED HOUSE
4 BILL NO. 1736

By: Townley, Miller, Conley,
and Davis of the House

5 and

6 Stanley of the Senate

7
8
9 An Act relating to step therapy protocol; defining
10 terms; requiring health benefit plans to implement a
11 new process; providing exceptions to step therapy
12 protocol; prescribing required processes; providing
13 for certain information or supporting documentation
14 not required for submission; providing standard for
15 determinations; requiring information be readily
16 available on the health benefit plan's website;
17 establishing disposition process for requests;
18 clarifying applicability of act; providing for
19 codification; and providing an effective date.

20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

1 chronic respiratory failure consequent to chronic obstructive
2 pulmonary disease (CRF-COPD), requiring a step therapy protocol.

3 B. "Treatment step therapy protocol" means a treatment
4 utilization management protocol or program under which a group
5 health plan or health insurance issuer offering group health
6 insurance coverage of respiratory care treatments requires a
7 participant or beneficiary to try an alternative, plan-preferred
8 treatment and fail on this treatment before the plan or health
9 insurance issuer approves coverage for the non-preferred therapy
10 prescribed by the beneficiaries medical provider.

11 C. A health benefit plan shall:

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

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

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

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

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

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

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

1 5. The patient's disease state is classified as life
2 threatening.

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

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

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

14 a. has tried other qualifying treatments without success,
15 or

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

20 Other clinical information that may be relevant to conducting
21 the exception review may require disclosure.

22 3. Not require the submission of any information or supporting
23 documentation beyond what is strictly necessary to determine whether
24

1 any of the circumstances listed in subsection B of this section
2 exist.

3 F. The health benefit plan shall make information regarding the
4 process required under subsection C of this section readily
5 available on the Internet website of the group health plan or health
6 insurance issuer. Such information shall include:

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

9 2. Any forms, supporting information, and contact information,
10 as appropriate.

11 G. The process required under paragraph 1 of subsection C of
12 this section shall provide for the disposition of requests received
13 under such paragraph in accordance with the following:

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

24

1 2. In the case of a request under circumstances in which the
2 applicable equipment step therapy protocol may seriously jeopardize
3 the life or health of the participant or beneficiary, the plan or
4 issuer shall conduct a review of the request and respond to the
5 requesting prescriber with either a determination or exception
6 eligibility or a request for additional required information
7 strictly necessary to make a determination of whether the conditions
8 specified in subsection D of this section are met, in accordance
9 with the following:

- 10 a. if the plan or issuer can make a determination of
11 exception eligibility without additional information,
12 such determination shall be made on an expedited basis
13 and no later than one (1) business day after receipt
14 of such request, or
- 15 b. if the plan or issuer requires additional information
16 before making a determination of exception
17 eligibility, the plan or issuer shall respond to the
18 requesting provider with a request for such
19 information within one (1) business day of the request
20 for a determination, and shall respond with a
21 determination of exception eligibility as quickly as
22 the condition or disease requires and no later than
23 one (1) business day after receipt of the additional
24 required information.

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

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

8 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
9 April 4, 2023 - DO PASS

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24