

1 ENGROSSED SENATE
2 BILL NO. 509

By: Rader, Smalley, Simpson,
Young, Daniels, Hicks,
McCortney, Floyd, Rosino,
David and Kidd of the
Senate

and

Munson of the House

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8 An Act relating to health insurance; defining terms;
9 requiring insurers to use clinical practice
10 guidelines for developing step therapy protocol;
11 requiring insurers to provide process to request a
12 step therapy exception; requiring step therapy
13 exception process be posted online; requiring insurer
14 to grant step therapy exception in certain
15 circumstances; requiring insurers to permit appeal of
16 step therapy exception decision; establishing
17 timeline for response to step therapy exception;
18 authorizing automatic granting of exception in
19 certain circumstances; requiring insurer to authorize
20 coverage and dispensation of drugs in certain
21 situations; providing construing provisions;
22 authorizing Insurance Department and Health Care
23 Authority to promulgate rules; providing for
24 codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 7310 of Title 63, unless there
is created a duplication in numbering, reads as follows:

A. As used in this section:

1 1. "Clinical practice guidelines" means a systematically
2 developed statement to assist decision-making by healthcare
3 providers and patients about appropriate healthcare or specific
4 clinical circumstances and conditions;

5 2. "Health insurance plan" means any individual or group health
6 insurance policy, medical service plan, contract, hospital service
7 corporation contract, hospital and medical service corporation
8 contract, fraternal benefit society or health maintenance
9 organization, municipal group-funded pool, the Oklahoma Medicaid
10 Program and the state health care benefits plan that provides
11 medical, surgical or hospital expense coverage. For purposes of
12 this section, "health insurance plan" also includes any utilization
13 review organization that contracts with a health insurance plan
14 provider;

15 3. "Medical necessity" means that, under the applicable
16 standard of care, a health service or supply is appropriate to
17 improve or preserve health, life or function, to slow the
18 deterioration of health, life or function or for the early
19 screening, prevention, evaluation, diagnosis or treatment of a
20 disease, condition, illness or injury;

21 4. "Step therapy protocol" means a protocol or program that
22 establishes a specific sequence in which prescription drugs for a
23 specified medical condition that are medically appropriate for a
24 particular patient are covered by a health insurance plan;

1 5. "Step therapy exception" means a process by which a step
2 therapy protocol is overridden in favor of immediate coverage of the
3 healthcare provider's selected prescription drug;

4 6. "Utilization review organization" means an entity that
5 conducts utilization review, not including a health insurance plan
6 provider performing utilization review for the provider's own health
7 insurance plan; and

8 7. "Pharmaceutical sample" means a unit of a prescription drug
9 that is not intended to be sold and is intended to promote the sale
10 of the drug.

11 B. For any health insurance plan that is delivered, issued for
12 delivery, amended or renewed on or after January 1, 2020, and that
13 utilizes a step therapy protocol, a health carrier, health benefit
14 plan or utilization review organization shall use recognized,
15 evidence-based and peer-reviewed clinical practice guidelines when
16 establishing any step therapy protocol, when such guidelines are
17 available.

18 C. 1. For any health insurance plan that is delivered, issued
19 for delivery, amended or renewed on or after January 1, 2020, and
20 that restricts coverage of a prescription drug for the treatment of
21 any medical condition pursuant to a step therapy protocol, the
22 health insurance plan provider shall provide to the prescribing
23 healthcare provider and patient access to a clear, convenient and
24 readily accessible process to request a step therapy exception. Any

1 health insurance plan provider that utilizes a step therapy protocol
2 shall make such process to request a step therapy exception
3 accessible on the health insurance plan provider's website.

4 2. A health insurance plan shall grant a requested step therapy
5 exception if the submitted justification of the prescribing provider
6 and supporting clinical documentation, if needed, is completed and
7 supports the statement of the provider that:

- 8 a. the required prescription drug is contraindicated or
9 will likely cause an adverse reaction or physical or
10 mental harm to the patient,
- 11 b. the required prescription drug is expected to be
12 ineffective based on the known clinical
13 characteristics of the patient and the known
14 characteristics of the prescription drug,
- 15 c. the patient has tried the required prescription drug
16 while under the patient's current or a previous health
17 insurance plan and such prescription drug was
18 discontinued due to lack of efficacy or effectiveness,
19 diminished effect or an adverse event,
- 20 d. the required prescription drug is not in the best
21 interest of the patient, based on medical necessity,
22 or
- 23 e. the patient is stable on a prescription drug selected
24 by the patient's healthcare provider for the medical

1 condition under consideration while on the patient's
2 current or a previous health insurance plan.

3 3. A health insurance plan provider shall permit a patient to
4 appeal any decision rendered on a request for a step therapy
5 exception.

6 D. A health insurance plan provider shall respond to a request
7 for a step therapy exception, or any appeal therefor, within
8 seventy-two (72) hours of receipt of the request or appeal. If a
9 patient's prescribing healthcare provider indicates that exigent
10 circumstances exist, the health insurance plan provider shall
11 respond to such a request or appeal within twenty-four (24) hours of
12 receipt of the request or appeal. If the health insurance plan
13 provider fails to respond within the required time, the step therapy
14 exception or appeal shall be deemed granted. Upon granting a step
15 therapy exception, the health insurance plan provider shall
16 authorize coverage for and dispensation of the prescription drug
17 prescribed by the patient's healthcare provider.

18 E. This section shall not be construed to prevent a healthcare
19 provider from prescribing a prescription drug that is determined to
20 be medically appropriate.

21 F. Nothing in this section shall be construed to authorize the
22 use of a pharmaceutical sample for the sole purpose of meeting the
23 requirements for a step therapy exception.

1 G. Nothing in this section shall be construed to prevent the
2 substitution of a drug in accordance with current statutes and
3 regulations of this state.

4 H. The Oklahoma Insurance Department and the Oklahoma Health
5 Care Authority shall adopt rules necessary to implement and
6 administer this act prior to January 1, 2020.

7 SECTION 2. This act shall become effective November 1, 2019.

8 Passed the Senate the 12th day of March, 2019.

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Presiding Officer of the Senate

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12 Passed the House of Representatives the ____ day of _____,
13 2019.

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Presiding Officer of the House
of Representatives

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