

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 ENGROSSED SENATE
5 BILL NO. 509

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

and

10 Munson, **Dunnington, Roberts**
11 **(Dustin), Mize, Bush,**
12 **McEntire, Wallace, Echols,**
13 **Blancett, Hilbert, Davis,**
14 **Kannady, Conley, Miller,**
15 **Caldwell (Trey), Dollens,**
16 **Perryman, Bennett,**
17 **Fetgatter, Frix, Dills** and
18 **Lawson** of the House

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

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

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

5 A. As used in this section:

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

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

20 3. "Medical necessity" means that, under the applicable
21 standard of care, a health service or supply is appropriate to
22 improve or preserve health, life or function, to slow the
23 deterioration of health, life or function or for the early
24

1 screening, prevention, evaluation, diagnosis or treatment of a
2 disease, condition, illness or injury;

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

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

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

14 7. "Pharmaceutical sample" means a unit of a prescription drug
15 that is not intended to be sold and is intended to promote the sale
16 of the drug.

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

24

1 C. 1. For any health insurance plan that is delivered, issued
2 for delivery, amended or renewed on or after January 1, 2020, and
3 that restricts coverage of a prescription drug for the treatment of
4 any medical condition pursuant to a step therapy protocol, the
5 health insurance plan provider shall provide to the prescribing
6 healthcare provider and patient access to a clear, convenient and
7 readily accessible process to request a step therapy exception. Any
8 health insurance plan provider that utilizes a step therapy protocol
9 shall make such process to request a step therapy exception
10 accessible on the health insurance plan provider's website.

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

- 15 a. the required prescription drug is contraindicated or
16 will likely cause an adverse reaction or physical or
17 mental harm to the patient,
- 18 b. the required prescription drug is expected to be
19 ineffective based on the known clinical
20 characteristics of the patient and the known
21 characteristics of the prescription drug,
- 22 c. the patient has tried the required prescription drug
23 while under the patient's current or a previous health
24 insurance plan and such prescription drug was

1 discontinued due to lack of efficacy or effectiveness,
2 diminished effect or an adverse event,

3 d. the required prescription drug is not in the best
4 interest of the patient, based on medical necessity,
5 or

6 e. the patient is stable on a prescription drug selected
7 by the patient's healthcare provider for the medical
8 condition under consideration while on the patient's
9 current or a previous health insurance plan.

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

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

1 E. This section shall not be construed to prevent a healthcare
2 provider from prescribing a prescription drug that is determined to
3 be medically appropriate.

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

7 G. Nothing in this section shall be construed to prevent the
8 substitution of a drug in accordance with current statutes and
9 regulations of this state.

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

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

14
15 COMMITTEE REPORT BY: COMMITTEE ON HEALTH SERVICES AND LONG-TERM
16 CARE, dated 04/03/2019 - DO PASS, As Coauthored.

17
18
19
20
21
22
23
24