

An Act

ENROLLED HOUSE
BILL NO. 1736

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

and

Stanley of the Senate

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

SUBJECT: Step therapy protocol

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 7330 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. "Health benefit plan" means a plan as defined pursuant to Section 6060.4 of Title 36 of the Oklahoma Statutes, that provides coverage for invasive or noninvasive mechanical ventilation to treat chronic respiratory failure consequent to chronic obstructive 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 health plan or health insurance issuer offering group health insurance coverage of respiratory care treatments requires a participant or beneficiary to try an alternative, plan-preferred

treatment and fail on this treatment before the plan or health insurance issuer approves coverage for the non-preferred therapy prescribed by the beneficiary's medical provider.

C. A health benefit plan shall:

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

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

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

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

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

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

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

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

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

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

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

- a. has tried other qualifying treatments without success, or
- b. has received the requested treatment for a clinically appropriate amount of time to establish stability, in relation to the condition being treated and guidelines given by the prescribing physician.

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

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

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

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

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

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

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

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

- a. if the plan or issuer can make a determination of exception eligibility without additional information, such determination shall be made on an expedited basis and no later than one (1) business day after receipt of such request, or
- b. if the plan or issuer requires additional information before making a determination of exception eligibility, the plan or issuer shall respond to the requesting provider with a request for such information within one (1) business day of the request for a determination, and shall respond with a determination of exception eligibility as quickly as the condition or disease requires and no later than

one (1) business day after receipt of the additional required information.

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

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

Passed the House of Representatives the 8th day of March, 2023.

Presiding Officer of the House
of Representatives

Passed the Senate the 18 day of April, 2023.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____