

1 ENGROSSED HOUSE
2 BILL NO. 1736

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

3 and

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

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

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

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

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

9 C. A health benefit plan shall:

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

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

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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
12 based 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
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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

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

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Presiding Officer of the House
of Representatives

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13 Passed the Senate the ___ day of _____, 2023.

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Presiding Officer of the Senate

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