

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1552

By: Reese

COMMITTEE SUBSTITUTE

An Act relating to poor persons; amending 56 O.S. 1991, Section 204, which relates to Vendor Drug Program; providing for rules; adding to list of drugs not under program; providing for powers and duties of the Drug Utilization Review Board; providing for certain rules; prohibiting certain compensation or actions; providing for meetings; providing for duties; providing for content of certain programs; authorizing certain assistance; requiring certain annual reports; providing for contents; providing for maintenance and dispensing of certain prescription drugs in unit doses; providing conditions; authorizing credit for return of certain drugs; defining terms; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 56 O.S. 1991, Section 204, is amended to read as follows:

Section 204. A. ~~The~~ Pursuant to the provisions of this section, the Department of Human Services ~~shall be~~ is authorized and directed to establish a vendor drug program to provide any drugs that have been approved and designated as safe and effective by the federal Food and Drug Administration, and that are prescribed by a licensed medical, dental, podiatric or osteopathic practitioner for eligible recipients of assistance payments suffering from painful or life-endangering diseases or other persons who are suffering from a catastrophic illness.

B. ~~The Department shall not establish~~ Drug Utilization Review Board established pursuant to federal law shall recommend rules to the Commission for establishing a drug formulary. Rules establishing a drug formulary that restricts by any prior or retroactive approval process shall not restrict a physician's

ability to treat a patient with a prescription drug that, in his professional judgment and within the lawful scope of his practice, he considers appropriate for the diagnosis and treatment of the patient. ~~Provided that, in~~ The Board shall recommend to the Commission procedures for prior or retroactive approval of prescriptions or applications of prescription drugs by physicians on a restricted basis. Any such prior approval process shall provide for emergency uses and a seventy-two-hour prior authorization requirement for prescriptions or application of prescription drugs by physicians.

C. In accordance with federal law, the Department shall not be obligated to cover any outpatient drugs of a manufacturer which has not entered into or have in effect a rebate agreement with the Secretary of Health and Human Services on behalf of the state.

~~C.~~ D. For purposes of this section, "drug formulary" means a list of prescription drugs.

~~D.~~ E. Such program shall, to the fullest extent possible, be established and maintained in conjunction with existing federal programs of prescribed drugs so as to ~~earn the maximum of federal financial participation~~ provide optimum health care for all Medicaid recipients. Provided, that said drugs are to be dispensed through a licensed retail pharmacy. ~~Drugs used for cosmetic purposes, anorexic drugs and nonprescription drugs may be exempt from the provisions of this section, however~~ Exempt from the provisions of this section are drugs or classes of drugs which may be excluded from coverage in the state program pursuant to Section 4401 (d) (2) of the federal Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) provided, the Department shall be authorized to include these categories for reimbursement based upon specific medical ~~need~~ necessity.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 204.2 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The Drug Utilization Review Board recognized by the Commission for Human Services shall be responsible for the implementation of retrospective and prospective drug utilization

programs and shall include but not be limited to all provisions of this section.

B. No member of the Board shall be employed by, be under contract with, be compensated in any way or act on the behalf of a drug manufacturer or be related by marriage or within the third degree of consanguinity.

C. The Board shall hold at least two regular meetings each calendar year at a place and time to be fixed by the Board. The Board shall select one of its members to serve as chairman and another of its members to serve as vice-chairman at the first regular meeting in each calendar year to serve as the chairman and vice-chairman for the ensuing year. Special meetings may be called by the chairman, or by three members of the Board by delivery of written notice to each member of the Board.

D. The Board shall:

1. Recommend rules to the Commission for Human Services relating to a drug formulary;

2. Provide ongoing interventions for physicians and pharmacists, targeted toward therapy problems or individuals identified in the course of retrospective drug use reviews performed under this paragraph. Intervention programs shall include, in appropriate instances, at least:

- a. information dissemination sufficient to ensure the ready availability to physicians and pharmacists in the state of information concerning its duties, powers, and basis for its standards,
- b. written, oral, or electronic reminders containing patient-specific or drug-specific (or both) information and suggested changes in prescribing or dispensing practices, communicated in a manner designed to ensure the privacy of patient-related information,
- c. use of face-to-face discussions between health care professionals who are experts in rational drug therapy and selected prescribers and pharmacists who have been targeted for educational intervention,

including discussion of optimal prescribing, dispensing, or pharmacy care practices, and follow-up face-to-face discussions, and

- d. intensified review or monitoring of selected prescribers or dispensers.

The Board shall re-evaluate interventions after an appropriate period of time to determine if the intervention improved the quality of drug therapy, to evaluate the success of the interventions and make modifications as necessary;

3. Make any recommendations to the Commission in writing and concurred upon by at least a majority of the membership of the Board; and

4. Have the authority and the discretion to provide a public forum for the discussion of issues it considers relevant to its areas of jurisdiction, and to:

- a. make recommendations to the Commission or the Department concerning the need and the desirability of conducting public meetings, workshops and seminars, and
- b. hold public hearings to receive public comment in fulfillment of any federal requirements.

E. The Board is authorized to utilize the conference rooms of the Commission for Human Services and obtain administrative assistance from the Department, as required.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 204.3 of Title 56, unless there is created a duplication in numbering, reads as follows:

The Drug Utilization Review Board shall prepare a report on an annual basis. The Board shall submit a report on an annual basis to the Secretary which shall include:

1. A description of the activities of the Board;
2. The nature and scope of the prospective and retrospective drug use review programs;
3. A summary of the interventions used;
4. An assessment of the impact of these educational interventions on quality of care; and

5. An estimate of the cost savings generated as a result of such program.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1918.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Upon filling a prescription for H2 Antagonists and Hypoglycemics for a resident of a nursing facility, a pharmacist shall purchase the prescribed drug in unit doses when available; provided the federal Food and Drug Administration has approved the dispensing of the drug in unit doses.

B. Pursuant to the provisions of this section, the Oklahoma Board of Pharmacy shall by regulation authorize the return of any H2 Antagonists and Hypoglycemics packaged in unit doses. Unit doses of such prescriptions in ampules or vials may be returned to the pharmacy which dispensed such unit doses pursuant to subsection C of this section.

C. A pharmacist who provides such prescribed drugs in unit doses to a patient in a nursing facility may credit the person or agency which paid for the drug for any unused doses. The pharmacist may return the drugs to the issuing pharmacy, which may reissue the drugs to fill other prescriptions. A unit dose is reimbursable only when dispensed to a resident of a nursing facility.

D. For purposes of this section:

1. "Unit dose" means a sealed container packaged by a registered drug manufacturer with a unit of use medication that bears the name of the drug, expiration date, control number, the name and address of the manufacturer and the name of the pharmacy dispensing the drug; and

2. "Nursing facility" means a facility as defined by Section 1-1902 of Title 63 of the Oklahoma Statutes.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-1-9541

JB