

ENROLLED SENATE
BILL NO. 375

By: Cain of the Senate

and

Seikel, Tyler, Paulk, Reese
and Roach of the House

An Act relating to poor persons; amending 56 O.S. 1991, Section 204, which relates to the vendor drug program; modifying duties of the Department of Human Services; removing certain restrictions; providing for exemption of certain drugs; providing for exception under certain conditions; removing obsolete language; authorizing a Drug Utilization Review Program; providing limitation and condition to the Program; 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~~ Except as otherwise provided, the Department of Human Services shall be 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 a drug formulary that restricts by any prior or retroactive approval process 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 accordance with federal law, ~~the~~ Department shall not be obligated to cover any outpatient drugs of a manufacturer which has not entered into or which does not have in effect a rebate agreement with the Secretary of Health and Human Services on behalf of the state.

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

~~D.~~ 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. ~~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,~~ Exempt from the provisions of this section are the following drugs or classes of drugs, or their medical uses:

1. Agents when used for anorexia or weight gain;

2. Agents when used to promote fertility;
3. Agents when used for cosmetic purposes or hair growth;
4. Agents when used for the symptomatic relief of coughs and colds;
5. Agents when used to promote smoking cessation;
6. Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations;
7. Nonprescription drugs;
8. Covered outpatient drugs when the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee;
9. Drugs described in paragraph 3 of subsection c of Section 107 of the Drug Amendments of 1962, 21 U.S.C., Section 107(c)(3), and identical, similar or related drugs, within the meaning of paragraph 1 of subsection b of Section 310.6 of Title 21 of the Code of Federal Regulations;
10. Barbiturates; or
11. Benzodiazepines;

provided, however, the Department shall be authorized to include these categories specific drugs within these categories for reimbursement based upon specific medical need.

D. The Department of Human Services shall be authorized to establish a prospective drug utilization review program for the H2 Antagonists; provided that such limitations are in compliance with Federal Food and Drug Administration Agency approved product labeling.

SECTION 2. 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.

Passed the Senate the 27th day of April, 1993.

President of the Senate

Passed the House of Representatives the 6th day of April, 1993.

Speaker of the House of Representatives