

ENROLLED SENATE
BILL NO. 470

By: Monson of the Senate

and

Cox, Thornbrugh, Adkins and
Perry of the House

An Act relating to poor persons; amending 56 O.S. 1991, Section 204, as amended by Section 1, Chapter 142, O.S.L. 1993 (56 O.S. Supp. 1994, Section 204), which relates to hospitalization and medical care; clarifying agency responsibility for certain programs; creating the Medicaid Drug Utilization Review Board; providing for responsibilities, composition, qualifications of members, terms, officers and conduct of meetings of the Board; 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, as amended by Section 1, Chapter 142, O.S.L. 1993 (56 O.S. Supp. 1994, Section 204), is amended to read as follows:

Section 204. A. Except as otherwise provided, the Oklahoma Health Care Authority 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 Authority shall, in accordance with federal law, 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. 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. 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 Authority shall be authorized to include specific drugs within these categories for reimbursement based upon specific medical need.

D. The Authority 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. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 504.1 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created within the Oklahoma Health Care Authority the Medicaid Drug Utilization Review (DUR) Board, which shall be responsible for the implementation of retrospective and prospective drug utilization programs under the direction of the Authority.

B. The DUR Board shall consist of ten (10) members appointed by the chief executive officer of the Authority as follows:

1. Four physicians, licensed and actively engaged in the practice of medicine or osteopathic medicine in this state, of which:

- a. three shall be physicians chosen from a list of not less than six names submitted by the Oklahoma State Medical Association, and
- b. one shall be a physician chosen from a list of not less than two names submitted by the Oklahoma Osteopathic Association;

2. Four licensed pharmacists actively engaged in the practice of pharmacy, chosen from a list of not less than six names submitted by the Oklahoma Pharmaceutical Association;

3. One person representing the lay community, who shall not be a physician or a pharmacist, but shall be a health care professional with recognized knowledge and expertise in at least one of the following:

- a. clinically appropriate prescribing of covered outpatient drugs,
- b. clinically appropriate dispensing and monitoring of covered outpatient drugs,
- c. drug use review, evaluation and intervention, and
- d. medical quality assurance; and

4. One person representing the pharmaceutical industry who is a resident of the State of Oklahoma, chosen from a list of not less than two names submitted by the Pharmaceutical Research and Manufacturers of America.

C. Members shall serve terms of three (3) years, except that one physician, one pharmacist and the lay representative shall each be initially appointed for two-year terms in order to stagger the terms. In making the appointments, the chief executive officer shall provide, to the extent possible, for geographic balance in the representation on the DUR Board. Members may be reappointed for a period not to exceed three three-year terms and one partial term. Vacancies on the Board shall be filled for the balance of the unexpired term from new lists submitted by the entity originally submitting the list for the position vacated.

D. The Board shall elect from among its members a chair and a vice-chair who shall serve one-year terms, provided they may succeed themselves.

E. The proceedings of all meetings of the Board shall comply with the provisions of the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes, and shall be subject to the provisions of Articles I and II of the Administrative Procedures Act.

SECTION 3. 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.