

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 625

By: Monson

COMMITTEE SUBSTITUTE

[public health and safety - Medicaid Drug
Utilization Review (DUR) Board - codification -
effective date -

emergency]

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

SECTION 1. AMENDATORY Section 2, Chapter 161, O.S.L.
1995, as amended by Section 4, Chapter 221, O.S.L. 1996, and as
renumbered by Section 7, Chapter 221, O.S.L. 1996 (63 O.S. Supp.
1998, Section 5030.1), is amended to read as follows:

Section 5030.1 A. There is hereby created within the Oklahoma
Health Care Authority the Medicaid Drug Utilization Review (DUR)
Board, which shall be responsible for the development and
implementation of retrospective and prospective drug utilization
programs ~~under the direction of the Authority.~~

B. The Medicaid DUR Board shall consist of ten (10) members
appointed by the administrator 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 administrator shall provide, to the extent possible, for geographic balance in the representation on the Medicaid DUR Board. Members may be reappointed for a period not to exceed three three-year terms and one partial term. Vacancies on the Medicaid DUR 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 Medicaid DUR 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 Medicaid DUR Board shall comply with the provisions of the Oklahoma Open Meeting Act and shall be subject to the provisions of ~~Article I~~ of the Administrative Procedures Act.

F. The Medicaid DUR Board may advise and make recommendations to the Authority regarding existing, proposed and emergency rules governing retrospective and prospective drug utilization programs. The Oklahoma Health Care Authority Board shall promulgate rules pursuant to the provisions of ~~Article I~~ of the Administrative Procedures Act for implementation of the provisions of this section.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5030.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in Sections 1-5 of this act:

1. "Compendia" means the "American Hospital Formulary Services Drug Information", "U.S. Pharmacopoeia Drug Information", peer-reviewed medical literature, and information provided by pharmaceutical manufacturers;

2. "Criteria" means those explicit and predetermined elements that are used to assess or measure drug use on an ongoing basis to determine if the use is appropriate, medically necessary, and not likely to result in adverse medical outcomes;

3. "Authority" means the Oklahoma Health Care Authority;

4. "Drug-disease contraindication" means the prospect that the therapeutic effect of a drug would be adversely altered by the presence of another disease or condition;

5. "Drug interactions" means the prospect that two or more drugs taken by a recipient may lead to clinically significant toxicity that is uncharacteristic of any one of the drugs present or

that the taking of which leads to interference with the effectiveness of one or any of the drugs;

6. "Drug Utilization Review" or "DUR" means both retrospective and prospective drug utilization review designed to educate physicians and pharmacists and thereby ensure that prescriptions are appropriate, medically necessary and not likely to have adverse medical results;

7. "Overutilization" or "underutilization" means the use of a drug in such quantities that the desired therapeutic goal is not achieved;

8. "Prospective DUR" means that part of a drug utilization review program that occurs before a drug is dispensed and that is designed to screen for potential drug therapy problems based on explicit and predetermined criteria and standards. Prospective DUR screens for such problems as therapeutic duplication, drug-disease contraindications, incorrect dosage or duration of treatment, drug allergy interactions, and clinical abuse or misuse; and

9. "Retrospective DUR" means that part of the drug utilization review program that assesses or measures drug use based on an historical review of drug use data against predetermined and explicit criteria and standards on an ongoing basis with professional input. Retrospective DUR is the periodic examination of Medicaid drug pharmacy claims data and other information sources to find patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care on the part of physicians, pharmacists, and patients.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5030.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

The Medicaid Drug Utilization Review (DUR) Board shall have the following powers and duties:

1. To advise and make recommendations regarding rules promulgated by the Oklahoma Health Care Authority Board to enact the provisions of this act;

2. To oversee the development and implementation of a Medicaid retrospective and prospective drug utilization review program in accordance with the provisions of this act, including providing input in making recommendations related to the provisions of contractual agreements between the Oklahoma Health Care Authority and any other entity that will process and review Medicaid drug claims and profiles for the DUR program in accordance with the provisions of this act;

3. To develop and apply the criteria and standards to be used in retrospective and prospective drug utilization review. The criteria and standards shall be based on the compendia and FDA approved labeling, and shall be developed with professional input in a consensus fashion.

4. Timely provide opportunities for input regarding any revisions or changes to the retrospective and prospective drug utilization review process by affected persons;

5. Make opportunities available as part of the agenda for its regularly scheduled meetings for affected parties to provide relevant information to the Medicaid DUR Board;

6. Establish provisions to timely reassess and, as necessary, revise the retrospective and prospective drug utilization review process;

7. To establish standards for a grievance and appeals process which are clear and timely;

8. To make recommendations regarding the prior authorization of prescription drugs pursuant to the provisions of Section 5 of this act; and

9. Provide educational opportunities related to the medical appropriateness of prescription drugs for members of the provider community.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5030.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

1. The Medicaid Drug Utilization Review (DUR) Board shall develop and recommend to the Oklahoma Health Care Authority a retrospective and prospective DUR program for medical outpatient drugs to ensure that prescriptions are appropriate, medically necessary, and not likely to result in adverse medical outcomes.

2. The retrospective and prospective DUR program shall be operated under guidelines established by the Medicaid DUR Board as follows:

- a. The retrospective DUR program shall be based on guidelines established by the Medicaid DUR Board using the mechanized drug claims processing and information retrieval system to analyze claims data in order to:
 - (1) identify patterns of fraud, abuse, gross overuse or underuse, and inappropriate or medically unnecessary care, and
 - (2) assess data on drug use against explicit predetermined standards that are based on the compendia and other sources for the purpose of monitoring:
 - (a) therapeutic appropriateness,
 - (b) overutilization or underutilization,
 - (c) therapeutic duplication,
 - (d) drug-disease contraindications
 - (e) drug-drug interactions,
 - (f) incorrect drug dosage,
 - (g) duration of drug treatment, and

- (h) clinical abuse or misuse.
- b. (1) The prospective DUR program shall be based on guidelines established by the Medicaid Drug Utilization Review Board and shall provide that, before a prescription is filled or delivered, a review will be conducted by the pharmacist at the point of sale to screen for potential drug therapy problems resulting from:
 - (a) therapeutic duplication,
 - (b) drug-drug interactions,
 - (c) incorrect dosage or duration of treatment,
 - (d) drug-allergy interactions, and
 - (e) clinical abuse or misuse.
- (2) In conducting the prospective DUR, a pharmacist may not alter the prescribed outpatient drug therapy without the consent of the prescribing physician.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5030.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Any drug prior authorization program approved or implemented by the Medicaid Drug Utilization Review (DUR) Board shall meet the following conditions:

1. The Medicaid DUR Board shall provide evidence that placing a drug on prior authorization will not impede quality of recipient care and that the drug class is subject to clinical abuse or misuse;

2. Any drug placed on prior authorization shall be reconsidered no later than nine (9) months after such placement;

3. The program shall provide either telephone or fax approval or denial within twenty-four (24) hours after receipt of the prior authorization request; and

4. In an emergency situation, including situations in which an answer to a prior authorization request is unavailable, a twenty-four-hour supply shall be dispensed, or, at the discretion of the Medicaid DUR Board, a greater amount that will assure a minimum effective duration of therapy for an acute intervention.

B. In formulating its recommendations to the Oklahoma Health Care Authority Board for prior authorization, the Medicaid DUR Board shall:

1. Consider the potential impact of the administrative delay on patient care and the potential fiscal impact of prior authorization on pharmacy, physician, hospitalization and outpatient costs. Any recommendation making a drug subject to prior authorization shall be accompanied by a statement of the estimated impact of such action on pharmacy, physician, hospitalization and outpatient costs;

2. Conduct public hearings prior to making such recommendations to the Oklahoma Health Care Authority Board in accordance with the provisions of the Oklahoma Open Meeting Act and the Administrative Procedures Act; and

3. Review Oklahoma Medicaid specific data related to utilization criterion standards as provided in subdivision a of paragraph 2 of Section 4 of this act.

C. The Authority may accept or reject the recommendations of the Medicaid DUR Board in whole or in part, and may amend or add to such recommendations; provided, however, the Authority may not add to the list of drugs to be subject to prior authorization.

SECTION 6. This act shall become effective July 1, 1999.

SECTION 7. 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.

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