

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 959

By: Monson

AS INTRODUCED

An Act relating to public health and safety; amending 63 O.S. 2001, Sections 5006, 5010, as amended by Section 1, Chapter 218, O.S.L. 2004, 5030.1 and 5030.3 (63 O.S. Supp. 2004, Sections 5007 and 5010), which relate to the Oklahoma Health Care Authority and the Medicaid Drug Utilization Review Board; expanding powers and duties of the Oklahoma Health Care Authority Board; modifying method of appointment and terms of Medicaid Drug Utilization Review Board members; expanding powers and duties of Medicaid Drug Utilization Review Board; specifying time frame for and providing for review and discussion related to certain classification process; providing for additional administrative hearing before the Medicaid Drug Utilization Review Board for certain party; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 2001, Section 5006, is amended to read as follows:

Section 5006. A. There is hereby created the Oklahoma Health Care Authority. The Authority shall have the power and duty to:

1. Purchase health care benefits for Medicaid recipients, and others who are dependent on the state for necessary medical care, as specifically authorized by law;
2. Enter into contracts for the delivery of state-purchased health care and establish standards and criteria which must be met by entities to be eligible to contract with the Authority for the delivery of state-purchased health care;
3. Develop a proposed standard basic health care benefits package or packages to be offered by health services providers, for Medicaid recipients;

4. Study all matters connected with the provision of state-purchased and state-subsidized health care coverage;

5. Develop and submit plans, reports and proposals, provide information and analyze areas of public and private health care interaction pursuant to the provisions of the Oklahoma Health Care Authority Act;

6. Serve as a resource for information on state-purchased and state-subsidized health care access, cost containment and related health issues;

7. Administer programs and enforce laws placed under the jurisdiction of the Authority pursuant to the Oklahoma Health Care Authority Act, and such other duties prescribed by law;

8. Collaborate with and assist the Insurance Commissioner in the development of a Uniform Claim Processing System for use by third-party payors and health care providers;

9. Collaborate with and assist the State Department of Health with the development of licensure standards and criteria for pre-paid health plans; ~~and~~

10. Provide for each individual or family eligible to receive benefits under the state Medicaid program a written or recorded explanation of how such individual or family may exercise their rights to receive Medicaid benefits or to appeal a denial of benefits; and

11. Exercise all incidental powers which are necessary and proper to carry out the purposes of the Oklahoma Health Care Authority Act.

B. All positions within the Authority shall be unclassified until approval of the annual business and personnel plan submitted by January 1, 1995, by the Governor and the Legislature. In the annual business plan submitted January 1, 1995, the Board shall include a personnel plan which shall list, describe and justify all unclassified positions within the Authority and their compensation.

All other employees and positions shall be classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act.

SECTION 2. AMENDATORY 63 O.S. 2001, Section 5010, as amended by Section 1, Chapter 218, O.S.L. 2004 (63 O.S. Supp. 2004, Section 5010), is amended to read as follows:

Section 5010. A. The Oklahoma Health Care Authority shall analyze the state-purchased and state-subsidized health care programs and explore options for cost containment and delivery alternatives for those programs that are consistent with the purposes of those programs, including, but not limited to:

1. Creation of economic incentives for the persons for whom the state purchases or subsidizes health care to appropriately utilize and purchase health care services, including the development of flexible benefit plans to offset increases in individual financial responsibility;

2. Utilization of provider arrangements that encourage cost containment and ensure access to quality care, including, but not limited to, prepaid delivery systems, utilization review, and prospective payment methods;

3. Coordination of state agency efforts to purchase drugs effectively;

4. Development of recommendations and methods for purchasing medical equipment and supporting services on a volume discount basis; and

5. Development of data systems to obtain utilization data from state-purchased and state-subsidized health care programs in order to identify cost centers, utilization patterns, provider and hospital practice patterns, and procedure costs.

B. 1. The Authority shall prepare for the Governor, the Legislature and the Joint Legislative Oversight Committee for the Oklahoma Health Care Authority an annual report on the savings

realized and all costs incurred in the implementation of any drug cost containment programs including, but not limited to:

- a. development and implementation of a drug prior authorization list, and
- b. other uses of prior authorizations.

2. Costs shall include direct costs such as staffing, contracts and other resources used.

C. The Medicaid Drug Utilization Review Board shall conduct an analysis on the effect of the prior authorization program of the implementation of the Medicare Prescription Drug Improvement and Modernization Act of 2003, including whether:

1. There is any benefit in the prior authorization program given the shift to the Medicare program of dual eligible Medicaid recipients, as defined in Section 1935(c)(6) of the Social Security Act; and

2. Any state contract should be reconsidered given the reduction in Medicaid prescription caseload caused by the shift of Medicaid recipients to the Medicare program.

SECTION 3. AMENDATORY 63 O.S. 2001, 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 Board, which shall be responsible for the development, implementation and assessment of retrospective and prospective drug utilization programs under the direction of the Authority.

B. The Medicaid Drug Utilization Review Board shall consist of ten (10) members, four of whom shall be appointed by the administrator Governor, three by the President Pro Tempore of the Authority Senate, and three by the Speaker of the House of Representatives as follows:

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

whom participates in a practice that involves the care of or the supervision of the care of not less than one hundred fifty Medicaid recipients, of which:

- a. three shall be physicians chosen by each the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives from a list of not less than six names submitted by the Oklahoma State Medical Association, and
- b. one shall be a physician chosen by the Governor 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, two of whom shall be appointed by the Governor, one by the President Pro Tempore of the Senate and one by the Speaker of the House of Representatives;

3. One person, appointed by the Speaker of the House of Representatives, 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, appointed by the President Pro Tempore of the Senate, 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. Effective July 1, 2005, all members shall begin new terms.

Members shall serve terms of three (3) years, except that one physician, and one pharmacist, both appointed by the Governor, and the lay representative shall each be initially appointed for two-year terms in order to stagger the terms. In making the recommendations for appointments, the administrator consideration shall ~~provide~~, to the extent possible, for be given to geographic balance in the representation on the Medicaid Drug Utilization Review Board. Lists of recommendations shall be submitted to the appointing authorities no later than June 15, 2005, and no later than June 1 each year thereafter. Members may be reappointed for a period not to exceed three three-year terms and one partial term. Vacancies on the Medicaid Drug Utilization Review 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 Drug Utilization Review Board shall elect from among its members a chair, who shall be a physician, and a vice-chair who shall serve one-year terms, provided they may succeed themselves.

E. The proceedings of all meetings of the Medicaid Drug Utilization Review Board shall comply with the provisions of the Oklahoma Open Meeting Act and shall be subject to the provisions of the Administrative Procedures Act.

F. The Medicaid Drug Utilization Review 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 the Administrative Procedures Act for implementation of the provisions of this section.

SECTION 4. AMENDATORY 63 O.S. 2001, Section 5030.3, is amended to read as follows:

Section 5030.3 A. The Medicaid Drug Utilization Review Board shall have the power and duty to:

1. Advise and make recommendations regarding rules promulgated by the Oklahoma Health Care Authority Board to implement the provisions of ~~this act~~ Section 5030.1 et seq. of this title;

2. Oversee the development, implementation and assessment of a Medicaid retrospective and prospective drug utilization review program, including making recommendations regarding contractual agreements of the Oklahoma Health Care Authority with any entity involved in processing and reviewing Medicaid drug profiles for the drug utilization review program in accordance with the provisions of this act;

3. 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 federal Food and Drug Act approved labeling, and shall be developed with professional input;

4. Provide a period for public comment on each meeting agenda. As necessary, the Medicaid Drug Utilization Review Board may include a public hearing as part of a meeting agenda to solicit public comment regarding proposed changes in the prior authorization program and the retrospective and prospective drug utilization review processes. Notice of proposed changes to the prior authorization status of a drug or drugs shall be included in the monthly meeting agenda at least thirty (30) days prior to the consideration or recommendation of any proposed changes in prior authorization by the Medicaid Drug Utilization Review Board;

5. Establish provisions to timely reassess and, as necessary, revise the retrospective and prospective drug utilization review process; provided, however, any drug classified by the Oklahoma

Health Care Authority as a Tier I drug and requiring no prior authorization shall remain as a Tier I drug for at least one (1) year after such classification. Provided further, no drug shall be subject to restriction or prior authorization until the drug is reviewed and discussed at a regularly scheduled meeting of the Medicaid Drug Utilization Review Board at which evidence is presented to support any such restriction on use of the drug in treating patients;

6. Make recommendations regarding the prior authorization of prescription drugs pursuant to the provisions of Section 5 of this act; and

7. Notify providers and patients in writing of any changes in the classification of any drug under the drug utilization and review process at least sixty (60) days prior to the change. Such notice shall be posted on the Medicaid Drug Utilization Review Board Internet website; and

8. Provide members of the provider community with educational opportunities related to the clinical appropriateness of prescription drugs.

B. Any party aggrieved by a decision of the Oklahoma Health Care Authority Board or the Administrator of the Oklahoma Health Care Authority, pursuant to a recommendation of the Medicaid Drug Utilization Review Board, shall be entitled to an administrative hearing before the ~~Oklahoma Health Care Authority~~ Medicaid Drug Utilization Review Board, after which the Medicaid Drug Utilization Review Board shall make another recommendation to the Oklahoma Health Care Authority Board, pursuant to the provisions of the Administrative Procedures Act.

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.

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CJ

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