

THE HOUSE OF REPRESENTATIVES
Thursday, April 2, 2009

Committee Substitute for
ENGROSSED
Senate Bill No. 934

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 934 - By:
ANDERSON, COFFEE, CRAIN AND FORD of the Senate and SCHWARTZ AND
DERBY of the House.

An Act relating to public health and safety; amending 63 O.S. 2001, Section 5030.5, as last amended by Section 1, Chapter 206, O.S.L. 2005 (63 O.S. Supp. 2008, Section 5030.5), which relates to the Medicaid Drug Utilization Review Board; permitting the Medicaid Drug Utilization Review Board to establish protocols and standards for certain types of drugs; and providing an effective date.

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

1 SECTION 1. AMENDATORY 63 O.S. 2001, Section 5030.5, as last amended by
2 Section 1, Chapter 206, O.S.L. 2005 (63 O.S. Supp. 2008, Section 5030.5), is amended to
3 read as follows:

4 Section 5030.5 A. Except as provided in subsection F of this section, any drug prior
5 authorization program approved or implemented by the Medicaid Drug Utilization
6 Review Board shall meet the following conditions:

7 1. The Medicaid Drug Utilization Review Board shall make note of and consider
8 information provided by interested parties, including, but not limited to, physicians,

1 pharmacists, patients, and pharmaceutical manufacturers, related to the placement of a
2 drug or drugs on prior authorization;

3 2. Any drug or drug class placed on prior authorization shall be reconsidered no
4 later than twelve (12) months after such placement;

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

7 4. In an emergency situation, including a situation in which an answer to a prior
8 authorization request is unavailable, a seventy-two-hour supply shall be dispensed, or, at
9 the discretion of the Medicaid Drug Utilization Review Board, a greater amount that will
10 assure a minimum effective duration of therapy for an acute intervention.

11 B. In formulating its recommendations for placement of a drug or drug class on
12 prior authorization to the Oklahoma Health Care Authority Board, the Medicaid Drug
13 Utilization Review Board shall:

14 1. Consider the potential impact of any administrative delay on patient care and
15 the potential fiscal impact of such prior authorization on pharmacy, physician,
16 hospitalization and outpatient costs. Any recommendation making a drug subject to
17 placement on prior authorization shall be accompanied by a statement of the cost and
18 clinical efficacy of such placement;

19 2. Provide a period for public comment on each meeting agenda. Prior to making
20 any recommendations, the Medicaid Drug Utilization Review Board shall solicit public
21 comment regarding proposed changes in the prior authorization program in accordance

1 with the provisions of the Oklahoma Open Meeting Act and the Administrative
2 Procedures Act; and

3 3. Review Oklahoma Medicaid specific data related to utilization criterion
4 standards as provided in division (1) of subparagraph b of paragraph 2 of Section 5030.4
5 of this title.

6 C. The Oklahoma Health Care Authority Board may accept or reject the
7 recommendations of the Medicaid Drug Utilization Review Board in whole or in part, and
8 may amend or add to such recommendations.

9 D. The Oklahoma Health Care Authority shall immediately provide coverage under
10 prior authorization for any new drug approved by the United States Food and Drug
11 Administration if the drug falls within a drug class that the Authority has already placed
12 under prior authorization.

13 E. 1. Prior to a vote by the Medicaid Drug Utilization Review Board to consider
14 expansion of product-based prior authorization, the Authority shall:

- 15 a. develop a written estimate of savings expected to accrue from the
16 proposed expansion, and
- 17 b. make the estimate of savings available, on request of interested
18 persons, no later than the day following the first scheduled discussion
19 of the estimate by the Medicaid Drug Utilization Review Board at a
20 regularly scheduled meeting.

21 2. The written savings estimate based upon savings estimate assumptions specified
22 by paragraph 3 of this subsection prepared by the Authority shall include as a minimum:

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BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

- 1 a. a summary of all paid prescription claims for patients with a product
2 in the therapeutic category under consideration during the most recent
3 month with complete data, plus a breakdown, as available, of these
4 patients according to whether the patients are residents of a long-term
5 care facility or are receiving Advantage Waiver program services,
6 b. current number of prescriptions, amount reimbursed and trend for
7 each product within the category under consideration,
8 c. average active ingredient cost reimbursed per day of therapy for each
9 product and strength within the category under consideration,
10 d. for each product and strength within the category under consideration,
11 where applicable, the prevailing State Maximum Allowable Cost
12 reimbursed per dosage unit,
13 e. the anticipated impact of any patent expiration of any product within
14 the category under consideration scheduled to occur within two (2)
15 years from the anticipated implementation date of the proposed prior
16 authorization expansion, and
17 f. a detailed estimate of administrative costs involved in the prior
18 authorization expansion including, but not limited to, the anticipated
19 increase in petition volume.

20 3. Savings estimate assumptions shall include, at a minimum:

- 1 a. the prescription conversion rate of products requiring prior
2 authorization (Tier II) to products not requiring prior authorization
3 (Tier I) and to other alternative products,
4 b. aggregated rebate amount for the proposed Tier I and Tier II products
5 within the category under consideration,
6 c. market shift of Tier II products due to other causes including, but not
7 limited to, patent expiration,
8 d. Tier I to Tier II prescription conversion rate, and
9 e. nature of medical benefits and complications typically seen with
10 products in this class when therapy is switched from one product to
11 another.

12 4. The Medicaid Drug Utilization Review Board shall consider prior authorization
13 expansion in accordance with the following Medicaid Drug Utilization Review Board
14 meeting sequence:

- 15 a. first meeting: publish the category or categories to be considered for
16 prior authorization expansion in the future business section of the
17 Medicaid Drug Utilization Review Board agenda,
18 b. second meeting: presentation and discussion of the written estimate of
19 savings,
20 c. third meeting: make formal notice in the agenda of intent to vote on
21 the proposed prior authorization expansion, and
22 d. fourth meeting: vote on prior authorization expansion.

1 F. The Medicaid Drug Utilization Review Board may establish protocols and
2 standards for the use of any prescription drug determined to be medically necessary,
3 proven to be effective and approved by the Food and Drug Administration (FDA) for the
4 treatment and prevention of human immunodeficiency virus/acquired immune deficiency
5 syndrome (HIV/AIDS) and Hepatitis C without prior authorization,~~except when.~~
6 Atypical antipsychotics and typical antipsychotics shall be exempt from any preferred
7 drug list or any product-based prior authorization program in the drug utilization review
8 of the Oklahoma Health Care Authority, except:

- 9 1. In the case of clinical review and clinical edits as recommended by the Medicaid
10 Drug Utilization Review Board and approved by the Chief Medical Officer of the
11 Oklahoma Health Care Authority; or
12 2. When there is a generic equivalent drug available.

13 SECTION 2. This act shall become effective November 1, 2009.

14 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 04-01-09 - DO
15 PASS, As Amended and Coauthored.

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