

1 ENGROSSED SENATE AMENDMENT  
TO  
2 ENGROSSED HOUSE  
BILL NO. 2273

By: Cox of the House

and

Crain of the Senate

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7  
8 An Act relating to public health and safety; amending  
63 O.S. 2011, Section 5006, which relates to the  
9 Oklahoma Health Care Authority; authorizing Authority  
to pay professional expenses of administrator and  
10 full-time physicians employed by the Authority;  
amending 63 O.S. 2011, Section 5030.5, which relates  
11 to a drug prior authorization program; permitting  
prior authorization of certain drugs; permitting  
12 prior authorization of certain new medications  
pending Board review; providing for inapplicability;  
13 and providing an effective date.

14  
15 AUTHOR: Add the following Senate Coauthor: McAffrey

16 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and  
entire bill and insert

17 "[ public health and safety - professional expenses -  
18 Medicaid prescription drugs - codification -  
effective date ]

19  
20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. AMENDATORY 63 O.S. 2011, Section 5006, is  
22 amended to read as follows:

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

- 1        1. Purchase health care benefits for Medicaid recipients, and  
2 others who are dependent on the state for necessary medical care, as  
3 specifically authorized by law;
- 4        2. Enter into contracts for the delivery of state-purchased  
5 health care and establish standards and criteria which must be met  
6 by entities to be eligible to contract with the Authority for the  
7 delivery of state-purchased health care;
- 8        3. Develop a proposed standard basic health care benefits  
9 package or packages to be offered by health services providers, for  
10 Medicaid recipients;
- 11       4. Study all matters connected with the provision of state-  
12 purchased and state-subsidized health care coverage;
- 13       5. Develop and submit plans, reports and proposals, provide  
14 information and analyze areas of public and private health care  
15 interaction pursuant to the provisions of the Oklahoma Health Care  
16 Authority Act;
- 17       6. Serve as a resource for information on state-purchased and  
18 state-subsidized health care access, cost containment and related  
19 health issues;
- 20       7. Administer programs and enforce laws placed under the  
21 jurisdiction of the Authority pursuant to the Oklahoma Health Care  
22 Authority Act, and such other duties prescribed by law;

23  
24

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

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

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

10 B. All positions within the Authority shall be unclassified  
11 until approval of the annual business and personnel plan submitted  
12 by January 1, 1995, by the Governor and the Legislature. In the  
13 annual business plan submitted January 1, 1995, the Board shall  
14 include a personnel plan which shall list, describe and justify all  
15 unclassified positions within the Authority and their compensation.  
16 All other employees and positions shall be classified and subject to  
17 the provisions of the Merit System of Personnel Administration as  
18 provided in the Oklahoma Personnel Act.

19 C. The Authority is authorized to:

20 1. Pay professional expenses of the administrator of the  
21 Authority, including dues, licenses, professional memberships and  
22 continuing education classes conducted in the State of Oklahoma; and

23 2. Pay professional expenses of any Oklahoma-licensed  
24 physician, including dues, licenses, professional memberships and

1 continuing medical education classes conducted in the State of  
2 Oklahoma, provided the physician is a full-time employee of the  
3 Authority in accordance with subsection B of this section or  
4 paragraph 1 of subsection B of Section 840-5.5 of Title 74 of the  
5 Oklahoma Statutes and is utilizing those professional skills in the  
6 performance of his or her job duties.

7 SECTION 2. AMENDATORY 63 O.S. 2011, Section 5030.5, is  
8 amended to read as follows:

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

13 1. The Medicaid Drug Utilization Review Board shall make note  
14 of and consider information provided by interested parties,  
15 including, but not limited to, physicians, pharmacists, patients,  
16 and pharmaceutical manufacturers, related to the placement of a drug  
17 or drugs on prior authorization;

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

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

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

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

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

16           2. Provide a period for public comment on each meeting agenda.  
17 Prior to making any recommendations, the Medicaid Drug Utilization  
18 Review Board shall solicit public comment regarding proposed changes  
19 in the prior authorization program in accordance with the provisions  
20 of the Oklahoma Open Meeting Act and the Administrative Procedures  
21 Act; and

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

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

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

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

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

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

- 23 a. a summary of all paid prescription claims for patients  
24 with a product in the therapeutic category under

1 consideration during the most recent month with  
2 complete data, plus a breakdown, as available, of  
3 these patients according to whether the patients are  
4 residents of a long-term care facility or are  
5 receiving Advantage Waiver program services,

6 b. current number of prescriptions, amount reimbursed and  
7 trend for each product within the category under  
8 consideration,

9 c. average active ingredient cost reimbursed per day of  
10 therapy for each product and strength within the  
11 category under consideration,

12 d. for each product and strength within the category  
13 under consideration, where applicable, the prevailing  
14 State Maximum Allowable Cost reimbursed per dosage  
15 unit,

16 e. the anticipated impact of any patent expiration of any  
17 product within the category under consideration  
18 scheduled to occur within two (2) years from the  
19 anticipated implementation date of the proposed prior  
20 authorization expansion, and

21 f. a detailed estimate of administrative costs involved  
22 in the prior authorization expansion including, but  
23 not limited to, the anticipated increase in petition  
24 volume.

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

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

15 4. The Medicaid Drug Utilization Review Board shall consider  
16 prior authorization expansion in accordance with the following  
17 Medicaid Drug Utilization Review Board meeting sequence:

- 18 a. first meeting: publish the category or categories to  
19 be considered for prior authorization expansion in the  
20 future business section of the Medicaid Drug  
21 Utilization Review Board agenda,  
22 b. second meeting: presentation and discussion of the  
23 written estimate of savings,  
24

- 1           c.    third meeting:  make formal notice in the agenda of  
2                    intent to vote on the proposed prior authorization  
3                    expansion, and  
4           d.    fourth meeting:  vote on prior authorization  
5                    expansion.

6           F.  The Medicaid Drug Utilization Review Board may establish  
7 protocols and standards, including prior authorization, for the use  
8 of any prescription drug determined to be medically necessary,  
9 proven to be effective and approved by the United States Food and  
10 Drug Administration (FDA) ~~for the treatment and prevention of human~~  
11 ~~immunodeficiency virus/acquired immune deficiency syndrome~~  
12 ~~(HIV/AIDS) and Hepatitis C without prior authorization, except when~~  
13 ~~there is a generic equivalent drug available.~~  Newly approved  
14 medications may be prior authorized upon market entry, utilizing the  
15 FDA-approved labeling as the authorization criteria pending review  
16 by the Medicaid Drug Utilization Review Board.  Provided, however,  
17 that nothing in this subsection shall apply to prescription drugs  
18 used for the treatment and prevention of human immunodeficiency  
19 virus/acquired immune deficiency syndrome (HIV/AIDS) approved by the  
20 United States Food and Drug Administration.  Nothing in this  
21 subsection shall allow any prior authorization or otherwise apply to  
22 any drug or chemical which is used for the purpose of causing or  
23 inducing an abortion, as defined in Section 1-730 of this title.  
24

1 SECTION 3. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 5030.6 of Title 63, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. The Oklahoma Health Care Authority shall adopt a Preferred  
5 Generic Drug List no later than October 1, 2012.

6 B. The Oklahoma Health Care Authority shall enter into  
7 arrangements that require generic manufacturers of drugs on the  
8 Preferred Generic Drug List to provide supplemental state rebates  
9 based upon a competitive bidding process of these drugs. Such  
10 arrangements shall be in lieu of prescription drug limits in the  
11 state Medicaid program.

12 C. Generic drugs not selected for the Preferred Generic Drug  
13 List shall be prior authorized.

14 SECTION 4. This act shall become effective September 1, 2012."

15 Passed the Senate the 17th day of April, 2012.

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Presiding Officer of the Senate

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19 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,

20 2012.

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Presiding Officer of the House  
of Representatives

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