

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 53rd Legislature (2012)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2273

By: Cox of the House

and

Crain of the Senate

7  
8  
9  
10 COMMITTEE SUBSTITUTE

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

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

23 SECTION 1. AMENDATORY 63 O.S. 2011, Section 5006, is  
24 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        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. 1. The Authority is authorized to:

20 a. pay professional expenses of the administrator of the  
21 Authority, including dues, licenses, professional  
22 memberships and continuing education classes conducted  
23 in the State of Oklahoma, and

1           b. pay professional expenses of any Oklahoma-licensed  
2           physician, including dues, licenses, professional  
3           memberships and continuing medical education classes  
4           conducted in the State of Oklahoma, provided the  
5           physician is a full-time employee of the Authority in  
6           accordance with subsection B of this section or  
7           paragraph 1 of subsection B of Section 840-5.5 of  
8           Title 74 of the Oklahoma Statutes and is utilizing  
9           those professional skills in the performance of his or  
10           her job duties.

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

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

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

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

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

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

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

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

22           2. Provide a period for public comment on each meeting agenda.  
23 Prior to making any recommendations, the Medicaid Drug Utilization  
24

1 Review Board shall solicit public comment regarding proposed changes  
2 in the prior authorization program in accordance with the provisions  
3 of the Oklahoma Open Meeting Act and the Administrative Procedures  
4 Act; and

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

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

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

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

- 20 a. develop a written estimate of savings expected to  
21 accrue from the proposed expansion, and  
22 b. make the estimate of savings available, on request of  
23 interested persons, no later than the day following

24

1 the first scheduled discussion of the estimate by the  
2 Medicaid Drug Utilization Review Board at a regularly  
3 scheduled meeting.

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

- 7 a. a summary of all paid prescription claims for patients  
8 with a product in the therapeutic category under  
9 consideration during the most recent month with  
10 complete data, plus a breakdown, as available, of  
11 these patients according to whether the patients are  
12 residents of a long-term care facility or are  
13 receiving Advantage Waiver program services,
- 14 b. current number of prescriptions, amount reimbursed and  
15 trend for each product within the category under  
16 consideration,
- 17 c. average active ingredient cost reimbursed per day of  
18 therapy for each product and strength within the  
19 category under consideration,
- 20 d. for each product and strength within the category  
21 under consideration, where applicable, the prevailing  
22 State Maximum Allowable Cost reimbursed per dosage  
23 unit,

1 e. the anticipated impact of any patent expiration of any  
2 product within the category under consideration  
3 scheduled to occur within two (2) years from the  
4 anticipated implementation date of the proposed prior  
5 authorization expansion, and

6 f. a detailed estimate of administrative costs involved  
7 in the prior authorization expansion including, but  
8 not limited to, the anticipated increase in petition  
9 volume.

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

11 a. the prescription conversion rate of products requiring  
12 prior authorization (Tier II) to products not  
13 requiring prior authorization (Tier I) and to other  
14 alternative products,

15 b. aggregated rebate amount for the proposed Tier I and  
16 Tier II products within the category under  
17 consideration,

18 c. market shift of Tier II products due to other causes  
19 including, but not limited to, patent expiration,

20 d. Tier I to Tier II prescription conversion rate, and

21 e. nature of medical benefits and complications typically  
22 seen with products in this class when therapy is  
23 switched from one product to another.

24

1 4. The Medicaid Drug Utilization Review Board shall consider  
2 prior authorization expansion in accordance with the following  
3 Medicaid Drug Utilization Review Board meeting sequence:

- 4 a. first meeting: publish the category or categories to  
5 be considered for prior authorization expansion in the  
6 future business section of the Medicaid Drug  
7 Utilization Review Board agenda,  
8 b. second meeting: presentation and discussion of the  
9 written estimate of savings,  
10 c. third meeting: make formal notice in the agenda of  
11 intent to vote on the proposed prior authorization  
12 expansion, and  
13 d. fourth meeting: vote on prior authorization  
14 expansion.

15 F. The Medicaid Drug Utilization Review Board may establish  
16 protocols and standards, including prior authorization, for the use  
17 of any prescription drug determined to be medically necessary,  
18 proven to be effective and approved by the United States Food and  
19 Drug Administration (FDA) ~~for the treatment and prevention of human~~  
20 ~~immunodeficiency virus/acquired immune deficiency syndrome~~  
21 ~~(HIV/AIDS) and Hepatitis C without prior authorization, except when~~  
22 ~~there is a generic equivalent drug available.~~ Newly approved  
23 medications may be prior authorized upon market entry, utilizing the

1 FDA-approved labeling as the authorization criteria pending review  
2 by the Medicaid Drug Utilization Review Board. Provided, however,  
3 that nothing in this subsection shall apply to prescription drugs  
4 used for the treatment and prevention of human immunodeficiency  
5 virus/acquired immune deficiency syndrome (HIV/AIDS).

6 SECTION 3. This act shall become effective November 1, 2012.

7  
8 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated  
9 02/29/2012 - DO PASS, As Amended and Coauthored.

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

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