

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. 2606

By: Blackwell of the House

and

Brecheen of the Senate

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10                                   COMMITTEE SUBSTITUTE

11                   An Act relating to insurance; creating the Continuity  
12                   of Care Act of 2012; defining terms; specifying act  
13                   shall be applicable to certain health benefit plans;  
14                   specifying exceptions; specifying certain  
15                   prescription medication notice requirements;  
16                   authorizing the modification of drug benefits;  
17                   specifying requirements; providing for codification;  
18                   and providing an effective date.

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

20                   SECTION 1.           NEW LAW           A new section of law to be codified  
21                   in the Oklahoma Statutes as Section 6850.1 of Title 36, unless there  
22                   is created a duplication in numbering, reads as follows:

23                   Sections 1 through 8 of this act shall be known and may be cited  
24                   as the "Continuity of Care Act of 2012".

1 SECTION 2. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 6850.2 of Title 36, unless there  
3 is created a duplication in numbering, reads as follows:

4 As used in the Continuity of Care Act of 2012:

- 5 1. "Drug formulary" means a list of drugs:
- 6 a. for which a health benefit plan provides coverage,
  - 7 b. for which a health benefit plan issuer approves  
8 payment, or
  - 9 c. that a health benefit plan issuer encourages or offers  
10 incentives for physicians to prescribe;
- 11 2. "Enrollee" means an individual who is covered under a group  
12 health benefit plan, including a covered dependent;
- 13 3. "Physician" means a person licensed as a physician by the  
14 State Board of Medical Licensure and Supervision; and
- 15 4. "Prescription drug" means:
- 16 a. a substance for which federal or state law requires a  
17 prescription before the substance may be legally  
18 dispensed to the public,
  - 19 b. a drug or device that under federal law is required,  
20 before being dispensed or delivered, to be labeled  
21 with the statement:
- 22  
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1 (1) "Caution: federal law prohibits dispensing  
2 without prescription" or "Rx only" or another  
3 legend that complies with federal law, or

4 (2) "Caution: federal law restricts this drug to use  
5 by or on the order of a licensed veterinarian",  
6 or

7 c. a drug or device that is required by federal or state  
8 statute or regulation to be dispensed on prescription  
9 or that is restricted to use by a practitioner only.

10 SECTION 3. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 6850.3 of Title 36, unless there  
12 is created a duplication in numbering, reads as follows:

13 The Continuity of Care Act of 2012 applies only to a health  
14 benefit plan that provides benefits for medical or surgical expenses  
15 incurred as a result of a health condition, accident, or sickness,  
16 including an individual, group, blanket, or franchise insurance  
17 policy or insurance agreement, a group hospital service contract, or  
18 a small or large employer group contract or similar coverage  
19 document that is offered by:

- 20 1. An insurance company;
- 21 2. A group hospital service corporation;
- 22 3. A fraternal benefit society;
- 23 4. A stipulated premium company;

- 1 5. A reciprocal exchange;
- 2 6. A health maintenance organization;
- 3 7. A multiple employer welfare arrangement; or
- 4 8. An approved nonprofit health corporation.

5 SECTION 4. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 6850.4 of Title 36, unless there  
7 is created a duplication in numbering, reads as follows:

8 The Continuity of Care Act of 2012 shall not apply to:

9 1. A health benefit plan that provides coverage:

- 10 a. only for a specified disease or for another single  
11 benefit,
- 12 b. only for accidental death or dismemberment,
- 13 c. for wages or payments in lieu of wages for a period  
14 during which an employee is absent from work because  
15 of sickness or injury,
- 16 d. as a supplement to a liability insurance policy,
- 17 e. for credit insurance,
- 18 f. only for dental or vision care,
- 19 g. only for hospital expenses, or
- 20 h. only for indemnity for hospital confinement;

21 2. A Medicare supplemental policy as defined by Section  
22 1882(g)(1) of the Social Security Act, 42 U.S.C., Section 1395ss, as  
23 amended;

1 3. A workers' compensation insurance policy;

2 4. Medical payment insurance coverage provided under a motor  
3 vehicle insurance policy;

4 5. A long-term care insurance policy, including a nursing home  
5 fixed indemnity policy, unless the Insurance Commissioner determines  
6 that the policy provides benefit coverage so comprehensive that the  
7 policy is a health benefit plan; or

8 6. A Medicaid managed care program.

9 SECTION 5. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 6850.5 of Title 36, unless there  
11 is created a duplication in numbering, reads as follows:

12 An issuer of a health benefit plan that covers prescription  
13 drugs and uses one or more drug formularies to specify the  
14 prescription drugs covered under the plan shall:

15 1. Provide in plain language in the coverage documentation  
16 provided to each enrollee:

17 a. notice that the plan uses one or more drug  
18 formularies,

19 b. an explanation of what a drug formulary is,

20 c. a statement regarding the method the issuer uses to  
21 determine the prescription drugs to be included in or  
22 excluded from a drug formulary,

1 d. a statement of how often the issuer reviews the  
2 contents of each drug formulary, and

3 e. notice that an enrollee may contact the issuer to  
4 determine whether a specific drug is included in a  
5 particular drug formulary;

6 2. Disclose to an individual on request, not later than three  
7 (3) business days after the date of the request, whether a specific  
8 drug is included in a particular drug formulary; and

9 3. Notify an enrollee and any other individual who requests  
10 information under this section that the inclusion of a drug in a  
11 drug formulary does not guarantee that the health care provider of  
12 an enrollee will prescribe that drug for a particular medical  
13 condition or mental illness.

14 SECTION 6. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 6850.6 of Title 36, unless there  
16 is created a duplication in numbering, reads as follows:

17 A. A health benefit plan issuer may modify drug coverage  
18 provided under a health benefit plan if:

19 1. The modification is effective uniformly among all group  
20 health benefit plan sponsors covered by identical or substantially  
21 identical health benefit plans or all individuals covered by  
22 identical or substantially identical individual health benefit  
23 plans, as applicable; and

1           2. No later than sixty (60) days before the date the  
2 modification is effective, the issuer provides written or electronic  
3 notice of the modification to the Insurance Commissioner, each  
4 affected group health benefit plan sponsor, each affected enrollee  
5 in an affected group health benefit plan, and each affected  
6 individual health benefit plan holder.

7           B. Modifications affecting drug coverage that require notice  
8 under subsection A of this section include:

- 9           1. Removing a drug from a formulary;  
10           2. Adding a requirement that an enrollee receive prior  
11 authorization for a drug;  
12           3. Imposing or altering a quantity limit for a drug;  
13           4. Imposing a step-therapy restriction for a drug; and  
14           5. Moving a drug to a higher cost-sharing tier unless a generic  
15 drug alternative to the drug is available.

16           C. A health benefit plan issuer may elect to offer an enrollee  
17 in the plan the option of receiving notifications required by this  
18 section by e-mail.

19           SECTION 7. This act shall become effective November 1, 2012.

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21 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 02/27/2012 - DO  
22 PASS, As Amended and Coauthored.

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