

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2606

By: Blackwell

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5
6 AS INTRODUCED

7 An Act relating to insurance; creating the Continuity
8 of Care Act of 2012; defining terms; specifying act
9 shall be applicable to certain health benefit plans;
10 specifying exceptions; specifying certain
11 prescription medication notice requirements;
12 authorizing the modification of drug benefits;
13 specifying requirements; prohibiting health benefit
14 plan providers from modifying the cost or
15 availability of certain medications; specifying
16 exceptions; specifying certain denials shall be
17 subject to external reviews; providing for
18 codification; 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".

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

As used in the Continuity of Care Act of 2012:

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

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

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

- 14 1. An insurance company;
- 15 2. A group hospital service corporation;
- 16 3. A fraternal benefit society;
- 17 4. A stipulated premium company;
- 18 5. A reciprocal exchange;
- 19 6. A health maintenance organization;
- 20 7. A multiple employer welfare arrangement; or
- 21 8. An approved nonprofit health corporation.

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

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

2 1. A health benefit plan that provides coverage:

3 a. only for a specified disease or for another single
4 benefit,

5 b. only for accidental death or dismemberment,

6 c. for wages or payments in lieu of wages for a period
7 during which an employee is absent from work because
8 of sickness or injury,

9 d. as a supplement to a liability insurance policy,

10 e. for credit insurance,

11 f. only for dental or vision care,

12 g. only for hospital expenses, or

13 h. only for indemnity for hospital confinement;

14 2. A Medicare supplemental policy as defined by Section
15 1882(g)(1) of the Social Security Act, 42 U.S.C., Section 1395ss, as
16 amended;

17 3. A workers' compensation insurance policy;

18 4. Medical payment insurance coverage provided under a motor
19 vehicle insurance policy;

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

24 6. A Medicaid managed care program.

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

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

7 1. Provide in plain language in the coverage documentation
8 provided to each enrollee:

- 9 a. notice that the plan uses one or more drug
10 formularies,
- 11 b. an explanation of what a drug formulary is,
- 12 c. a statement regarding the method the issuer uses to
13 determine the prescription drugs to be included in or
14 excluded from a drug formulary,
- 15 d. a statement of how often the issuer reviews the
16 contents of each drug formulary, and
- 17 e. notice that an enrollee may contact the issuer to
18 determine whether a specific drug is included in a
19 particular drug formulary;

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

23 3. Notify an enrollee and any other individual who requests
24 information under this section that the inclusion of a drug in a

1 drug formulary does not guarantee that the health care provider of
2 an enrollee will prescribe that drug for a particular medical
3 condition or mental illness.

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

7 A. A health benefit plan issuer may modify drug coverage
8 provided under a health benefit plan if:

9 1. The modification occurs at the time of coverage renewal;

10 2. The modification is effective uniformly among all group
11 health benefit plan sponsors covered by identical or substantially
12 identical health benefit plans or all individuals covered by
13 identical or substantially identical individual health benefit
14 plans, as applicable; and

15 3. No later than sixty (60) days before the date the
16 modification is effective, the issuer provides written notice of the
17 modification to the Insurance Commissioner, each affected group
18 health benefit plan sponsor, each affected enrollee in an affected
19 group health benefit plan, and each affected individual health
20 benefit plan holder.

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

23 1. Removing a drug from a formulary;

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- 1 2. Adding a requirement that an enrollee receive prior
- 2 authorization for a drug;
- 3 3. Imposing or altering a quantity limit for a drug;
- 4 4. Imposing a step-therapy restriction for a drug; and
- 5 5. Moving a drug to a higher cost-sharing tier unless a generic
- 6 drug alternative to the drug is available.

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

10 SECTION 7. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 6850.7 of Title 36, unless there
12 is created a duplication in numbering, reads as follows:

13 A. An issuer of a health benefit plan that covers prescription
14 drugs shall offer to each enrollee at the contracted benefit level
15 and until the plan renewal date any prescription drug that was
16 approved or covered under the plan for a medical condition or mental
17 illness, regardless of whether the drug has been removed from the
18 health benefit plan's drug formulary before the plan renewal date.

19 B. This section does not prohibit a physician or other health
20 professional who is authorized to prescribe a drug from prescribing
21 a drug that is an alternative to a drug for which continuation of
22 coverage is required under subsection A of this section if the
23 alternative drug is:

- 24 1. Covered under the health benefit plan; and

1 2. Medically appropriate for the enrollee.

2 SECTION 8. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 6850.8 of Title 36, unless there
4 is created a duplication in numbering, reads as follows:

5 A. The refusal of a health benefit plan issuer to provide
6 benefits to an enrollee for a prescription drug is an adverse
7 determination as defined in the Uniform Health Carrier External
8 Review Act if:

9 1. The drug is not included in a drug formulary used by the
10 health benefit plan; and

11 2. The enrollee's physician has determined that the drug is
12 medically necessary.

13 B. The enrollee may appeal the adverse determination pursuant
14 to the requirements of the Uniform Health Carrier External Review
15 Act.

16 SECTION 9. This act shall become effective November 1, 2012.

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