

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 SENATE BILL 756

By: Montgomery

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6 AS INTRODUCED

7 An Act relating to the state Medicaid program;
8 prohibiting prior authorization process by contracted
9 entity under certain condition; requiring certain
10 evaluation; allowing exemption to continue without
11 evaluation; making exemption automatic; specifying
12 duration of exemption; providing for continuation of
13 exemption under certain condition; allowing
14 contracted entity to rescind or deny exemption under
15 certain conditions; granting certain right to
16 participating provider; making certain final decision
17 binding; prohibiting certain retroactive denial;
18 prohibiting and restricting certain actions by
19 contracted entity for overturned determination;
20 clarifying provider eligibility for redetermination;
21 restricting denial or reduction of payment by
22 contracted entity; restricting retrospective review
23 by contracted entity; requiring provision of certain
24 notices; providing for codification; and declaring an
emergency.

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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 4002.6a of Title 56, unless
22 there is created a duplication in numbering, reads as follows:

23 A. 1. Notwithstanding Section 4002.6 of Title 56 of the
24 Oklahoma Statutes, a contracted entity that uses a prior
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1 authorization process for health care services may not require a
2 participating provider to obtain prior authorization for a
3 particular health care service if, in the most recent six-month
4 evaluation period, as described by paragraph 2 of this subsection,
5 the contracted entity has approved or would have approved not less
6 than ninety percent (90%) of the prior authorization requests
7 submitted by the provider for the particular health care service as
8 provided by this section.

9 2. Except as provided by paragraph 3 of this subsection, a
10 contracted entity shall evaluate whether a participating provider
11 qualifies for an exemption from prior authorization requirements
12 under paragraph 1 of this subsection once every six (6) months.

13 3. A contracted entity may continue an exemption under
14 paragraph 1 of this subsection without evaluating whether the
15 participating provider qualifies for the exemption for a particular
16 evaluation period.

17 4. A participating provider is not required to request an
18 exemption under paragraph 1 of this subsection to qualify for the
19 exemption.

20 B. 1. A participating provider's exemption from prior
21 authorization requirements under subsection A of this section
22 remains in effect until:

- 23 a. the thirtieth day after the date the contracted entity
24 notifies the provider of the contracted entity's
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1 determination to rescind the exemption under this
2 section, if the provider does not appeal the
3 contracted entity's determination, or

- 4 b. if the provider appeals the determination, the fifth
5 day after the date a final decision is rendered
6 through the appeals process provided for by Sections
7 4002.6 and 4002.8 of Title 56 of the Oklahoma Statutes
8 that affirms the contracted entity's determination to
9 rescind the exemption.

10 2. If a contracted entity does not finalize a rescission
11 determination as specified in paragraph 1 of this subsection, then
12 the participating provider is considered to have met the criteria
13 under subsection A of this section to continue to qualify for the
14 exemption.

15 C. 1. A contracted entity may rescind an exemption from prior
16 authorization requirements under subsection A of this section only:

- 17 a. during a time period to be determined by the Oklahoma
18 Health Care Authority,
19 b. if the contracted entity makes a determination, on the
20 basis of a retrospective review of a random sample of
21 not fewer than five and no more than twenty claims
22 submitted by the participating provider during the
23 most recent evaluation period described by paragraph 2
24 of subsection A of this section, that less than ninety

1 percent (90%) of the claims for the particular health
2 care service met the medical necessity criteria that
3 would have been used by the contracted entity when
4 conducting prior authorization review for the
5 particular health care service during the relevant
6 evaluation period, and

7 c. if the contracted entity complies with other
8 applicable requirements specified in this section,
9 including:

10 (1) notifying the participating provider not less
11 than twenty-five (25) days before the proposed
12 rescission is to take effect; and

13 (2) providing with the notice under division 1 of
14 this subparagraph, the sample information used to
15 make the determination under subparagraph b of
16 this paragraph.

17 2. A contracted entity may deny an exemption from prior
18 authorization requirements under subsection A of this section only
19 if:

20 a. the participating provider does not have the exemption
21 at the time of the relevant evaluation period, and

22 b. the contracted entity provides the participating
23 provider with actual statistics and data for the
24 relevant prior authorization request evaluation period
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1 and detailed information sufficient to demonstrate
2 that the provider does not meet the criteria for an
3 exemption from prior authorization requirements for
4 the particular health care service under subsection A
5 of this section.

6 D. A participating provider has a right to a review and appeal
7 of an adverse determination regarding a prior authorization
8 exemption in accordance with Sections 4002.6 and 4002.8 of Title 56
9 of the Oklahoma Statutes.

10 E. 1. A contracted entity is bound by a final decision
11 rendered through the appeals process provided for by Sections 4002.6
12 and 4002.8 of Title 56 of the Oklahoma Statutes that does not affirm
13 the determination made by the contracted entity to rescind a prior
14 authorization exemption.

15 2. A contracted entity may not retroactively deny a health care
16 service on the basis of a rescission of an exemption, even if the
17 contracted entity's determination to rescind the prior authorization
18 exemption is affirmed by a final decision rendered through the
19 appeals process provided for by Sections 4002.6 and 4002.8 of Title
20 56 of the Oklahoma Statutes.

21 3. If a determination of a prior authorization exemption made
22 by the contracted entity is overturned on review by a final decision
23 rendered through the appeals process provided for by Sections 4002.6
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1 and 4002.8 of Title 56 of the Oklahoma Statutes, the contracted
2 entity:

- 3 a. may not attempt to rescind the exemption before the
4 end of the next evaluation period that occurs, and
- 5 b. may only rescind the exemption after if the contracted
6 entity complies with subsections C and D of this
7 section.

8 F. After a final decision is rendered through the appeals
9 process provided for by Sections 4002.6 and 4002.8 of Title 56 of
10 the Oklahoma Statutes affirming the rescission or denial of an
11 exemption for a specific health care service under subsection A of
12 this section, a participating provider is eligible for consideration
13 of an exemption for the same health care service after the six-month
14 evaluation period that follows the evaluation period which formed
15 the basis of the rescission or denial of an exemption.

16 G. 1. A contracted entity may not deny or reduce payment to a
17 participating provider for a health care service for which the
18 provider has qualified for an exemption from prior authorization
19 requirements under subsection A of this section based on medical
20 necessity or appropriateness of care unless the provider:

- 21 a. knowingly and materially misrepresented the health
22 care service in a request for payment submitted to the
23 contracted entity with the specific intent to deceive

1 and obtain an unlawful payment from the contracted
2 entity, or

3 b. failed to substantially perform the health care
4 service.

5 2. A contracted entity may not conduct a retrospective review
6 of a health care service subject to an exemption except:

7 a. to determine if the participating provider still
8 qualifies for an exemption under this section, or

9 b. if the contracted entity has a reasonable cause to
10 suspect a basis for denial exists under paragraph 1 of
11 this subsection.

12 3. Not later than five days after qualifying for an exemption
13 from prior authorization requirements under subsection A of this
14 section, a contracted entity must provide to a participating
15 provider a notice that includes:

16 a. a statement that the provider qualifies for an
17 exemption from prior authorization requirements under
18 subsection A of this section,

19 b. a list of the health care services to which the
20 exemption applies, and

21 c. a statement of the duration of the exemption.

22 4. If a participating provider submits a prior authorization
23 request for a health care service for which the provider qualifies
24 for an exemption from prior authorization requirements under

1 subsection A of this section, the contracted entity must promptly
2 provide a notice to the provider that includes:

- 3 a. the information described by paragraph 3 of this
4 subsection, and
- 5 b. a notification of the contracted entity's payment
6 requirements.

7 SECTION 2. It being immediately necessary for the preservation
8 of the public peace, health or safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

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