

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. _____

COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 509, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Rader

Rader-CB-FS-Req#2080
3/11/2019 2:03 PM

(Floor Amendments Only) Date and Time Filed: _____

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 FLOOR SUBSTITUTE
4 FOR

5 SENATE BILL NO. 509

6 By: Rader, Smalley, Simpson,
7 Young, Daniels, Hicks,
8 McCortney, Floyd, Rosino,
9 David and Kidd of the
10 Senate

11 and

12 Munson of the House

13 FLOOR SUBSTITUTE

14 An Act relating to health insurance; defining terms;
15 requiring insurers to use clinical practice
16 guidelines for developing step therapy protocol;
17 requiring insurers to provide process to request a
18 step therapy exception; requiring step therapy
19 exception process be posted online; requiring insurer
20 to grant step therapy exception in certain
21 circumstances; requiring insurers to permit appeal of
22 step therapy exception decision; establishing
23 timeline for response to step therapy exception;
24 authorizing automatic granting of exception in
certain circumstances; requiring insurer to authorize
coverage and dispensation of drugs in certain
situations; providing construing provisions;
authorizing Insurance Department and Health Care
Authority to promulgate rules; providing for
codification; and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 7310 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. As used in this section:

5 1. "Clinical practice guidelines" means a systematically
6 developed statement to assist decision-making by healthcare
7 providers and patients about appropriate healthcare or specific
8 clinical circumstances and conditions;

9 2. "Health insurance plan" means any individual or group health
10 insurance policy, medical service plan, contract, hospital service
11 corporation contract, hospital and medical service corporation
12 contract, fraternal benefit society or health maintenance
13 organization, municipal group-funded pool, the Oklahoma Medicaid
14 Program and the state health care benefits plan that provides
15 medical, surgical or hospital expense coverage. For purposes of
16 this section, "health insurance plan" also includes any utilization
17 review organization that contracts with a health insurance plan
18 provider;

19 3. "Medical necessity" means that, under the applicable
20 standard of care, a health service or supply is appropriate to
21 improve or preserve health, life or function, to slow the
22 deterioration of health, life or function or for the early
23 screening, prevention, evaluation, diagnosis or treatment of a
24 disease, condition, illness or injury;

1 4. "Step therapy protocol" means a protocol or program that
2 establishes a specific sequence in which prescription drugs for a
3 specified medical condition that are medically appropriate for a
4 particular patient are covered by a health insurance plan;

5 5. "Step therapy exception" means a process by which a step
6 therapy protocol is overridden in favor of immediate coverage of the
7 healthcare provider's selected prescription drug;

8 6. "Utilization review organization" means an entity that
9 conducts utilization review, not including a health insurance plan
10 provider performing utilization review for the provider's own health
11 insurance plan; and

12 7. "Pharmaceutical sample" means a unit of a prescription drug
13 that is not intended to be sold and is intended to promote the sale
14 of the drug.

15 B. For any health insurance plan that is delivered, issued for
16 delivery, amended or renewed on or after January 1, 2020, and that
17 utilizes a step therapy protocol, a health carrier, health benefit
18 plan or utilization review organization shall use recognized,
19 evidence-based and peer-reviewed clinical practice guidelines when
20 establishing any step therapy protocol, when such guidelines are
21 available.

22 C. 1. For any health insurance plan that is delivered, issued
23 for delivery, amended or renewed on or after January 1, 2020, and
24 that restricts coverage of a prescription drug for the treatment of

1 any medical condition pursuant to a step therapy protocol, the
2 health insurance plan provider shall provide to the prescribing
3 healthcare provider and patient access to a clear, convenient and
4 readily accessible process to request a step therapy exception. Any
5 health insurance plan provider that utilizes a step therapy protocol
6 shall make such process to request a step therapy exception
7 accessible on the health insurance plan provider's website.

8 2. A health insurance plan shall grant a requested step therapy
9 exception if the submitted justification of the prescribing provider
10 and supporting clinical documentation, if needed, is completed and
11 supports the statement of the provider that:

- 12 a. the required prescription drug is contraindicated or
13 will likely cause an adverse reaction or physical or
14 mental harm to the patient,
- 15 b. the required prescription drug is expected to be
16 ineffective based on the known clinical
17 characteristics of the patient and the known
18 characteristics of the prescription drug,
- 19 c. the patient has tried the required prescription drug
20 while under the patient's current or a previous health
21 insurance plan and such prescription drug was
22 discontinued due to lack of efficacy or effectiveness,
23 diminished effect or an adverse event,

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1 d. the required prescription drug is not in the best
2 interest of the patient, based on medical necessity,
3 or

4 e. the patient is stable on a prescription drug selected
5 by the patient's healthcare provider for the medical
6 condition under consideration while on the patient's
7 current or a previous health insurance plan.

8 3. A health insurance plan provider shall permit a patient to
9 appeal any decision rendered on a request for a step therapy
10 exception.

11 D. A health insurance plan provider shall respond to a request
12 for a step therapy exception, or any appeal therefor, within
13 seventy-two (72) hours of receipt of the request or appeal. If a
14 patient's prescribing healthcare provider indicates that exigent
15 circumstances exist, the health insurance plan provider shall
16 respond to such a request or appeal within twenty-four (24) hours of
17 receipt of the request or appeal. If the health insurance plan
18 provider fails to respond within the required time, the step therapy
19 exception or appeal shall be deemed granted. Upon granting a step
20 therapy exception, the health insurance plan provider shall
21 authorize coverage for and dispensation of the prescription drug
22 prescribed by the patient's healthcare provider.

1 E. This section shall not be construed to prevent a healthcare
2 provider from prescribing a prescription drug that is determined to
3 be medically appropriate.

4 F. Nothing in this section shall be construed to authorize the
5 use of a pharmaceutical sample for the sole purpose of meeting the
6 requirements for a step therapy exception.

7 G. Nothing in this section shall be construed to prevent the
8 substitution of a drug in accordance with current statutes and
9 regulations of this state.

10 H. The Oklahoma Insurance Department and the Oklahoma Health
11 Care Authority shall adopt rules necessary to implement and
12 administer this act prior to January 1, 2020.

13 SECTION 2. This act shall become effective November 1, 2019.

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15 57-1-2080 CB 3/11/2019 2:03:42 PM

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