

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 2587

By: Roberts (Sean)

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7 COMMITTEE SUBSTITUTE

8 An Act relating to health care; creating the  
9 Nondiscrimination in Health Care Coverage Act;  
10 stating legislative findings; defining terms;  
11 prohibiting agency development or reliance on  
12 discriminatory measures in determining health care  
13 recommendations; requiring agency to post for public  
14 comment any new utilization management measure;  
15 requiring agency to consult with certain  
16 organizations; requiring agency to ensure stakeholder  
17 engagement and full transparency; listing certain  
18 requirements; providing for codification; and  
19 providing an effective date.

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

23 SECTION 1. NEW LAW A new section of law to be codified  
24 in the Oklahoma Statutes as Section 2560 of Title 63, unless there  
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the  
"Nondiscrimination in Health Care Coverage Act".

1 SECTION 2. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 2561 of Title 63, unless there  
3 is created a duplication in numbering, reads as follows:

4 The Legislature finds and declares that:

5 1. Physical and mental disabilities, age or chronic illness  
6 should in no way diminish a person's right to life, human dignity  
7 and equal access to medical care;

8 2. Historically, persons with disabilities, advanced age or  
9 chronic illness have faced discrimination in the health care system,  
10 including the denial of access to life-sustaining care;

11 3. Such discrimination is inconsistent with our society's  
12 commitment to human dignity and the full inclusion of persons with  
13 disabilities throughout society;

14 4. Lack of access to appropriate health care can result in  
15 significant adverse health consequences for persons with  
16 disabilities, those with chronic illness, and those of advanced age,  
17 including loss of function, reduced quality of life or even death;  
18 and

19 5. Both public and private payers have a moral, legal and  
20 ethical obligation to make health care reimbursement decisions in a  
21 transparent fashion utilizing nondiscriminatory criteria.

22 SECTION 3. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 2562 of Title 63, unless there  
24 is created a duplication in numbering, reads as follows:

1 As used in the Nondiscrimination in Health Care Coverage Act:

2 1. "Agency" shall include the state, all units of state  
3 government and shall not exclude any entity established under the  
4 constitution or laws of the state or established by any entity which  
5 was itself established under the constitution or laws of the state;

6 2. "Health care provider" means a person who is licensed,  
7 certified or otherwise authorized by the laws of this state to  
8 practice a health care or healing arts profession or who administers  
9 health care in the ordinary course of business;

10 3. "Health care service" means any phase of patient medical  
11 care, treatment or procedure, including, but not limited to,  
12 therapy, testing, diagnosis or prognosis, prescribing, dispensing or  
13 administering any device, drug or medication, surgery, or any other  
14 care or treatment rendered by health care providers;

15 4. "Utilization management" shall include step therapy, prior  
16 authorization restrictions and the use of formulary restrictions to  
17 restrict access to a drug or other health care service prescribed by  
18 a health care provider; and

19 5. "Self-advocacy organizations" means an organization run by  
20 persons with disabilities, the majority of whose board members and  
21 employees are themselves persons with disabilities.

22 SECTION 4. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 2563 of Title 63, unless there  
24 is created a duplication in numbering, reads as follows:

1 An agency shall be prohibited from developing or employing a  
2 dollars-per-quality adjusted life year, or similar measure that  
3 discounts the value of a life because of an individual's disability,  
4 including age or chronic illness, as a threshold to establish what  
5 type of health care is cost effective or recommended. An agency  
6 shall be prohibited from utilizing such adjusted life year, or  
7 similar measure, as a threshold to determine coverage,  
8 reimbursement, incentive programs or utilization management  
9 decisions, whether it comes from within the agency or from any third  
10 party.

11 SECTION 5. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 2564 of Title 63, unless there  
13 is created a duplication in numbering, reads as follows:

14 Any agency proposing new utilization management measures shall  
15 post for public comment both the proposed measure and the rationale  
16 behind the proposed measure, including the availability of  
17 alternatives, analysis of potential impact on atypical patient  
18 populations and subgroups, estimate of the population likely to be  
19 impacted by the measure and a description of both internal and  
20 third-party value assessments utilized in internal deliberations on  
21 the measure.

22 SECTION 6. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 2565 of Title 63, unless there  
24 is created a duplication in numbering, reads as follows:

1       A. Any agency making decisions on utilization management  
2 measures, coverage, reimbursement or incentive programs shall be  
3 required to consult with:

4       1. Organizations representing patients and people with  
5 disabilities, including both self-advocacy organizations and  
6 organizations representing patients, prior to proceeding on any  
7 measure likely to impact the relevant patient or disability  
8 community; and

9       2. Organizations representing patients and people that advocate  
10 for the rights of patients to obtain treatment without regard to the  
11 patients' quality of life and representatives of organizations that  
12 advocate for the rights of older persons to receive health care.

13       B. Any agency making decisions on utilization management  
14 measures, coverage, reimbursement or incentive programs shall ensure  
15 that a process is in place to ensure robust stakeholder engagement  
16 and full transparency surrounding the provision of any research and  
17 analysis relied upon for decision-making that would impact access to  
18 health care treatments and services by patient groups in subsection  
19 A of this section, including:

20       1. Providing stakeholders with meaningful notice and  
21 opportunity to comment on the retention of any vendor providing  
22 research and analysis to the agency;

23       2. Subjecting research and analysis relied upon by an agency to  
24 meaningful notice and comment process;

1           3. Ensuring deliberation around the coverage or reimbursement  
2 for health care treatments and services occurs in open meetings;

3           4. Presenting and releasing any research and analysis relied  
4 upon for decision-making in public meetings or publicly released  
5 prior to deliberation;

6           5. Requiring full disclosure into funding sources and conflicts  
7 of interest of any third party providing research and analysis to  
8 the state;

9           6. Prohibiting sole source contracts for research and analysis  
10 to ensure reliance on a range of evidence; and

11           7. Preparing an annual report assessing beneficiary access to  
12 health care treatments and services. The report shall assess the  
13 impact of any form of utilization management on access to care with  
14 a specific analysis of the impact on persons with disabilities,  
15 chronic illness and advanced age. The report shall be submitted to  
16 the State Legislature, be posted on the state Medicaid website, and  
17 the agency shall provide an opportunity for public comment.

18           C. Any research and analysis relied upon for decision-making  
19 that would impact coverage and access to health care treatments and  
20 services shall measure outcomes prioritized by patients and persons  
21 with disabilities as required by this section, as well as consider  
22 meaningful differences in the characteristics, needs and preferences  
23 of patients and persons with disabilities.

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1 SECTION 7. This act shall become effective November 1, 2020.

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