

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2587

By: Roberts (Sean)

7 COMMITTEE SUBSTITUTE

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

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

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 2560 of Title 63, unless there
24 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".

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

1 The Legislature finds and declares that:

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

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

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

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

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

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

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

23 1. "Agency" shall include the state, all units of state
24 government and shall not exclude any entity established under the

1 constitution or laws of the state or established by any entity which
2 was itself established under the constitution or laws of the state;

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

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

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

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

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

22 An agency shall be prohibited from developing or employing a
23 dollars-per-quality adjusted life year, or similar measure that
24 discounts the value of a life because of an individual's disability,

1 including age or chronic illness, as a threshold to establish what
2 type of health care is cost effective or recommended. An agency
3 shall be prohibited from utilizing such adjusted life year, or
4 similar measure, as a threshold to determine coverage,
5 reimbursement, incentive programs or utilization management
6 decisions, whether it comes from within the agency or from any third
7 party.

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

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

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

22 A. Any agency making decisions on utilization management
23 measures, coverage, reimbursement or incentive programs shall be
24 required to consult with:

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

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

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

17 1. Providing stakeholders with meaningful notice and
18 opportunity to comment on the retention of any vendor providing
19 research and analysis to the agency;

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

22 3. Ensuring deliberation around the coverage or reimbursement
23 for health care treatments and services occurs in open meetings;
24

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

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

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

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

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

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

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24 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02/26/2020 -
DO PASS, As Amended.