

**COMMITTEE AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1736 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Tammy Townley \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

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

3 PROPOSED COMMITTEE  
4 SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1736

By: Townley

7  
8 PROPOSED COMMITTEE SUBSTITUTE

9 An Act relating to step therapy protocol; defining  
10 terms; requiring health benefit plans to implement a  
11 new process; providing exceptions to step therapy  
12 protocol; requiring information be readily available  
13 on the health benefit plans website; establishing  
14 disposition process for requests; clarifying whom  
15 this act applies to; providing for codification; and  
16 providing for an effective date.

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

18 SECTION 1. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 7330 of Title 63, unless there  
20 is created a duplication in numbering, reads as follows:

21 A. "Health benefit plan" means a plan as defined pursuant to  
22 Section 6060.4 of Title 36 of the Oklahoma Statutes, that provides  
23 coverage for invasive or non-invasive mechanical ventilation to  
24 treat chronic respiratory failure consequent to chronic obstructive  
pulmonary disease (CRF-COPD), requiring a step therapy protocol.

1 B. "Treatment step therapy protocol" means a treatment  
2 utilization management protocol or program under which a group  
3 health plan or health insurance issuer offering group health  
4 insurance coverage of respiratory care treatments requires a  
5 participant or beneficiary to try an alternative, plan-preferred,  
6 treatment and fail on this treatment before the plan or health  
7 insurance issuer approves coverage for the non-preferred therapy  
8 prescribed by the beneficiaries medical provider.

9 C. A health benefit plan shall:

10 1. Implement a clear and transparent process for a participant  
11 or beneficiary, or the prescribing health care provider on behalf of  
12 the participant or beneficiary, with CRF-COPD to request an  
13 exception to such a step therapy protocol, pursuant to subsection B  
14 of this section; and

15 2. Where the participant or beneficiary or prescribing health  
16 care provider's request for an exception to the treatment step  
17 therapy protocols satisfies the criteria and requirements of  
18 subsection D of this section, cover the requested treatment in  
19 accordance with the terms established by the health plan or coverage  
20 for patient cost-sharing rates or amounts at the time of the  
21 participant's or beneficiary's enrollment in the health plan or  
22 health insurance coverage.

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1 D. The circumstances requiring an exception to a treatment step  
2 therapy protocol, pursuant to a request under subsection C of this  
3 section, are any of the following:

4 1. Any treatments otherwise required under the protocol, have  
5 not been shown to be as effective as other available options in the  
6 treatment of the disease or condition or the participant or  
7 beneficiary, when prescribed consistent with clinical indications,  
8 clinical guidelines, or other peer-reviewed evidence;

9 2. Delay of proven effective treatment would lead to severe or  
10 irreversible consequences, and the treatment initially required  
11 under the protocol is reasonably expected to be less effective  
12 based upon the documented physical or mental characteristics of the  
13 participant or beneficiary and the known characteristics of such  
14 treatment;

15 3. Any treatments otherwise required under the protocol are  
16 contraindicated for the participant or beneficiary or have caused,  
17 or are likely to cause, based on clinical, peer-reviewed evidence,  
18 an adverse reaction or other physical harm to the participant or  
19 beneficiary;

20 4. Any treatment otherwise required under the protocol has  
21 prevented, will prevent, or is likely to prevent a participant or  
22 beneficiary from achieving or maintaining reasonable and safe  
23 functional ability in performing occupational responsibilities or  
24 activities of daily living; or

1       5. The patient's disease state is classified as life  
2 threatening.

3       E. The process required by subsection C of this section shall:

4       1. Provide the prescribing health care provider or beneficiary  
5 or designated third-party advocate an opportunity to present such  
6 provider's clinical rational and relevant medical information for  
7 the group health plan or health insurance issuer to evaluate such  
8 request for exception;

9       2. Clearly set forth all required information and the specific  
10 criteria that will be used to determine whether an exception is  
11 warranted, which may require disclosure of the medical history or  
12 other health records of the participant or beneficiary demonstrating  
13 that the participant or beneficiary seeking an exception:

14       a. has tried other qualifying treatments without success,  
15 or

16       b. has received the requested treatment for a clinically  
17 appropriate amount of time to establish stability, in  
18 relation to the condition being treated and guidelines  
19 given by the prescribing physician.

20       Other clinical information that may be relevant to conducting  
21 the exception review may require disclosure.

22       3. Not require the submission of any information or supporting  
23 documentation beyond what is strictly necessary to determine whether  
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1 any of the circumstances listed in subsection B of this section  
2 exist.

3 F. The health benefit plan shall make information regarding the  
4 process required under subsection C of this section readily  
5 available on the internet website of the group health plan or health  
6 insurance issuer. Such information shall include:

7 1. The requirements for requesting an exception to a treatment  
8 step therapy protocol pursuant to this section; and

9 2. Any forms, supporting information, and contact information,  
10 as appropriate.

11 G. The process required under paragraph 1 of subsection C of  
12 this section, shall provide for the disposition of requests received  
13 under such paragraph in accordance with the following:

14 1. Subject to paragraph 2 of this subsection, not later than  
15 seventy-two (72) hours after receiving an initial exception request,  
16 the plan or issuer shall respond to the requesting prescriber with  
17 either a determination of exception eligibility or a request for  
18 additional required information, strictly necessary to make a  
19 determination of whether the conditions specified in subsection D of  
20 this section are met. The plan or issuer shall respond to the  
21 requesting provider with a determination of exception eligibility no  
22 later than seventy-two (72) hours after receipt of the additional  
23 required information; or

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1           2. In the case of a request under circumstances in which the  
2 applicable equipment step therapy protocol may seriously jeopardize  
3 the life or health of the participant or beneficiary, the plan or  
4 issuer shall conduct a review of the request and respond to the  
5 requesting prescriber with either a determination or exception  
6 eligibility or a request for additional required information  
7 strictly necessary to make a determination of whether the conditions  
8 specified in subsection D of this section are met, in accordance  
9 with the following:

- 10           a. if the plan or issuer can make a determination of  
11                exception eligibility without additional information,  
12                such determination shall be made on an expedited  
13                basis, and no later than twenty-four (24) hours after  
14                receipt of such request, or
- 15           b. if the plan or issuer requires additional information  
16                before making a determination of exception  
17                eligibility, the plan or issuer shall respond to the  
18                requesting provider with a request for such  
19                information within twenty-four (24) hours of the  
20                request for a determination, and shall respond with a  
21                determination of exception eligibility as quickly as  
22                the condition or disease requires, and no later than  
23                twenty-four (24) hours after receipt of the additional  
24                required information.

1 H. This act shall apply with respect to any licensed provider  
2 in the state of Oklahoma that provides coverage of a treatment  
3 pursuant to a policy that meets the definition of treatment step  
4 therapy protocol in subsection B of this section, regardless of  
5 whether such policy is described by such group health plan or health  
6 insurance coverage as a step therapy protocol.

7 SECTION 2. This act shall become effective November 1, 2023.

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9 59-1-7748 TJ 02/27/23

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