

ENROLLED SENATE
BILL NO. 76

By: Cain of the Senate

and

Thomas, Cox and Hamilton
(James) of the House

An Act relating to poor persons and state government; stating short title; stating purpose of act; defining terms; establishing the Oklahoma Medicaid Healthcare Options System; requiring certain entity to assume responsibility for certain preparations related to the system of delivery of the Oklahoma Medicaid Program; providing for the Commission for Human Services to assume such responsibility under certain circumstances; providing for administration and content of the System; providing for awarding of certain contracts on a competitive bid basis; requiring use of certain models by the System; specifying certain managed care model for certain metropolitan statistical areas; requiring initiation of process to provide for orderly transition of program; requiring development of managed care plan for certain persons pursuant to certain time frames; requiring the Department to apply for federal waivers for certain purpose; requiring certain design of application; stipulating use of certain funds; specifying date on or after which the System shall assume responsibility for providing care and reimbursing the cost of care for certain persons; requiring the Commission for Human Services and the Director of the Department of Human Services to implement the System; specifying procedures for implementation of the System; providing for coordination of benefits with exception; providing for comparison of scope, utilization rates, utilization control methods and unit prices of certain services with those of other states for certain purpose; providing for periodic assessment of certain factors; allowing contracting of certain functions; providing for exemption of certain contracts from the provisions of the Oklahoma Central Purchasing Act; requiring promulgation of rules with certain considerations; requiring certain contract terms for certain purpose; specifying provisions of contract; providing for promulgation of rules related to withholding or forfeiture of payments for certain act; allowing contract terms to require certain actions under certain circumstances; stating conditions under which the Department shall assume operations of participating provider; providing for notice and hearing; establishing a task force; stating

membership; stating purpose of the task force; requiring task force to make certain report to certain entity; stating contents of report; establishing the Joint Legislative Oversight Committee for the Oklahoma Medicaid Healthcare Options System; providing for membership and terms of members, method of removal and filling of vacancies, meetings and duties; providing for staffing and services to the Committee; stating duties of Committee; amending 74 O.S. 1991, Section 85.12, as last amended by Section 2 of Enrolled House Bill No. 1209 of the 1st Session of the 44th Oklahoma Legislature, which relates to the Oklahoma Central Purchasing Act; modifying list of acquisitions which shall not be included within the purview of the act; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1010.1 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. Sections 1 through 7 of this act shall be known and may be cited as the "Oklahoma Medicaid Healthcare Options Act".

B. In order to establish a coordinated approach to delivering and monitoring health care services and to ensure an efficient and appropriate level of quality health care services to eligible persons requiring such services, it is the purpose of the Oklahoma Medicaid Healthcare Options Act to establish a statewide managed care system of comprehensive health care delivery through the Oklahoma Medicaid Program including, but not limited to, prepaid capitated plans and primary case management plans, which shall be offered to all geographic areas of the state.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1010.2 Title 56, unless there is created a duplication in numbering, reads as follows:

A. As used in the Oklahoma Medicaid Healthcare Options Act:

1. "Department" means the Department of Human Services;

2. "Commission" means the Commission for Human Services;

3. "Director" means the Director of the Department of Human Services;

4. "Eligible person" means any person who meets the minimum requirements established by rules promulgated by the Department of Human Services pursuant to the requirements of Title XIX of the federal Social Security Act, 42 U.S.C., Section 1396 et seq.;

5. "Member" means an eligible person who enrolls in the Oklahoma Medicaid Healthcare Options System;

6. "Nonparticipating provider" means a person who provides hospital or medical care pursuant to the Oklahoma Medicaid Program but does not have a managed care health services contract or subcontract within the Oklahoma Medicaid Healthcare Options System;

7. "Prepaid capitated" means a mode of payment by which a health care provider directly delivers health care services for the duration of a contract to a maximum specified number of members based on a fixed rate per member, regardless of the actual number of

members who receive care from the provider or the amount of health care services provided to any member;

8. "Participating provider" means any person or organization who contracts with the state entity designated by law or the Department, as specified in paragraph 1 of subsection A of Section 3 of this act, for the delivery of hospitalization, eye care, dental care, medical care and other medically related services to members or any subcontractor of such provider delivering services pursuant to the Oklahoma Medicaid Healthcare Options System; and

9. "System" means the Oklahoma Medicaid Healthcare Options System established by the Oklahoma Medicaid Healthcare Options Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1010.3 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. 1. There is hereby established the Oklahoma Medicaid Healthcare Options System. On and after July 1, 1993, there shall be a state entity designated by law to assume responsibility for preparations for converting the present system of delivery of the Oklahoma Medicaid Program to a managed care system. In the event such state entity is not designated by law for such purpose, the Commission for Human Services or the Department of Human Services shall assume such responsibility.

2. The System shall be administered by the designated state Medicaid agency and consist of a statewide system of managed care contracts with participating providers for the provision of hospitalization, eye care, dental care and medical care coverage to members and the administration, supervision, monitoring and evaluation of such contracts. The contracts for the managed care health plans shall be awarded on a competitive bid basis.

3. The System shall use both full and partial capitation models to service the medical needs of eligible persons, provided that prepaid capitated health plans shall be the only managed care model offered in the metropolitan statistical areas of Oklahoma City and Tulsa.

B. On or before July 1, 1993, the Oklahoma Medicaid Healthcare Options System shall initiate a process to provide for the orderly transition of the operation of the Oklahoma Medicaid Program to a managed care program within the System.

C. The System shall develop managed care plans for all persons eligible for Title XIX of the federal Social Security Act, 42 U.S.C., Section 1396 et seq., as follows:

1. On or before July 1, 1995, a minimum of fifty percent (50%) of the participants in the Aid to Families with Dependent Children (AFDC) program and participants categorized as noninstitutionalized medically needy. On or before July 1, 1996, all participants in the Aid to Families with Dependent Children (AFDC) program and participants categorized as noninstitutionalized medically needy shall be enrolled in a managed care plan;

2. On or before July 1, 1997, all participants categorized as aged, blind or disabled; and

3. On or before July 1, 1999, all participants who are institutionalized or who are seriously and persistently mentally ill.

D. The Department shall apply for any and all federal Medicaid waivers necessary to implement the System. The application made pursuant to this subsection shall be designed to qualify for federal funding primarily on a prepaid capitated basis. Such funds may be used only for the eye care, dental care, medical care and related services for eligible persons.

E. From and after July 1, 1995, except as specifically required by federal law, the System shall only be responsible for providing care on or after the date that the person has been determined eligible for the System, and shall only be responsible for reimbursing the cost of care rendered on or after the date that the person was determined eligible for the System.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1010.4 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The state entity designated by law or the Commission for Human Services, as specified in paragraph 1 of subsection A of Section 3 of this act, shall take all steps necessary to implement the Oklahoma Medicaid Healthcare Options System as required by the Oklahoma Medicaid Healthcare Options Act.

B. The implementation of the System shall include but not be limited to the following:

1. Development of operations plans for the System which include reasonable access to hospitalization, eye care, dental care, medical care and other medically related services for members, including but not limited to access to twenty-four-hour emergency care;

2. Contract administration and oversight of participating providers;

3. Technical assistance services to participating providers and potential participating providers;

4. Development of a complete plan of accounts and controls for the System including, but not limited to, provisions designed to ensure that covered health and medical services provided through the System are not used unnecessarily or unreasonably;

5. Establishment of peer review and utilization study functions for all participating providers;

6. Technical assistance for the formation of medical care consortiums to provide covered health and medical services under the System. Development of service plans and consortiums may be on the basis of medical referral patterns;

7. Development and management of a provider payment system;

8. Establishment and management of a comprehensive plan for ensuring the quality of care delivered by the System;

9. Establishment and management of a comprehensive plan to prevent fraud by members, eligible persons and participating providers of the System;

10. Coordination of benefits provided under the Oklahoma Medicaid Healthcare Options Act to any member;

11. Development of a health education and information program;

12. Development and management of a participant enrollment system;

13. Establishment and maintenance of a claims resolution procedure to ensure that a submitted claim is resolved within forty-five (45) days of the date the claim is correctly submitted;

14. Establishment of standards for the coordination of medical care and patient transfers;

15. Provision for the transition of patients between participating providers and nonparticipating providers; and

16. Provision for the transfer of members and persons who have been determined eligible from hospitals which do not have contracts to care for such persons.

17. Specification of enrollment procedures including, but not limited to, notice to providers of enrollment. Such procedures may provide for varying time limits for enrollment in different situations;

18. Establishment of uniform forms and procedures to be used by all participating providers;

19. Methods of identification of members to be used for determining and reporting eligibility of members; and

20. Establishment of a comprehensive eye care and dental care system which:

- a. includes practitioners as participating providers,
- b. provides for quality care and reasonable and equal access to such practitioners, and
- c. provides for the development of service plans, referral plans and consortiums which result in referral practices that reflect timely, convenient and cost-effective access to such care for members in both rural and urban areas.

C. Except for reinsurance obtained by providers, the state entity designated by law or the Department of Human Services, as specified in paragraph 1 of subsection A of Section 3 of this act, shall coordinate benefits provided under the Oklahoma Medicaid Healthcare Options Act to any eligible person who is covered by workers' compensation, disability insurance, a hospital and medical service corporation, a health care services organization or other health or medical or disability insurance plan, or who receives payments for accident-related injuries, so that any costs for hospitalization and medical care paid by the System are recovered first from any other available third party payors. The System shall be the payor of last resort for eligible persons.

D. Prior to the development of the plan of accounts and controls required by this section and periodically thereafter, the state entity designated by law or the Department, as specified in paragraph 1 of subsection A of Section 3 of this act, shall compare the scope, utilization rates, utilization control methods and unit prices of major health and medical services provided in this state with health care services in other states to identify any unnecessary or unreasonable utilization within the System. The state entity designated by law or the Department, as specified in paragraph 1 of subsection A of Section 3 of this act, shall periodically assess the cost effectiveness and health implications of alternate approaches to the provision of covered health and medical services through the System in order to reduce unnecessary or unreasonable utilization.

E. The state entity designated by law or the Department, as specified in paragraph 1 of subsection A of Section 3 of this act, may contract distinct administrative functions to one or more persons or organizations who may be participating providers within the System.

F. Contracts for managed health care plans and other contracts necessary to implement the System shall not be subject to the provisions of the Oklahoma Central Purchasing Act, Section 85.1 et seq. of Title 74 of the Oklahoma Statutes. The state entity designated by law or the Commission, as specified in paragraph 1 of subsection A of Section 3 of this act, shall promulgate rules establishing appropriate competitive bidding criteria and procedures for contracts awarded pursuant to the Oklahoma Medicaid Healthcare Options Act.

G. The state entity designated by law or the Commission, as specified in paragraph 1 of subsection A of Section 3 of this act, shall promulgate rules as necessary to carry out the provisions of the Oklahoma Medicaid Healthcare Options Act. Such rules shall consider the differences between rural and urban conditions on the delivery of hospitalization, eye care, dental care and medical care.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1010.5 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. As a condition of the contract with any proposed or potential participating provider pursuant to the Oklahoma Medicaid Healthcare Options Act, the state entity designated by law or the Department of Human Services, as specified in paragraph 1 of subsection A of Section 3 of this act, shall require such contract terms as are necessary, in its judgment, to ensure adequate performance by a participating provider of the provisions of each contract executed pursuant to the Oklahoma Medicaid Healthcare Options Act. Required contract provisions shall include, but are not limited to:

1. The maintenance of deposits, performance bonds, financial reserves or other financial providers which have posted other security, equal to or greater than that required by the System, with a state agency for the performance of managed care contracts if funds would be available from such security for the System upon default by the participating provider; and

2. Requirements that all records relating to contract compliance shall be available for inspection by the state entity designated by law or the Department, as specified in paragraph 1 of subsection A of Section 3 of this act, or are submitted in accordance with rules promulgated by the state entity designated by law or the Commission for Human Services, as specified in paragraph 1 of subsection A of Section 3 of this act, and that such records be maintained by the participating provider for five (5) years. Such records shall also be made available by a participating provider on request of the secretary of the United States Department of Health and Human Services, or its successor agency.

B. The state entity designated by law or the Commission, as specified in paragraph 1 of subsection A of Section 3 of this act, shall promulgate rules which provide for the withholding or forfeiture of payments to be made to a participating provider by the Oklahoma Medicaid Healthcare Options System for the failure of the participating provider to comply with a provision of the participating provider's contract with the System or with the provisions of promulgated rules or law.

C. Contract terms shall also allow the state entity designated by law or the Department, as specified in paragraph 1 of subsection A of Section 3 of this act, to directly assume the operations of a participating provider under circumstances specified in the contract. Operations of the participating provider shall be assumed only as long as it is necessary to ensure delivery of uninterrupted care to members enrolled with the participating provider and accomplish the orderly transition of those members to other providers participating in the System, or until the participating provider reorganizes or otherwise corrects the contract performance failure. The operations of a participating provider shall not be assumed unless, prior to that action, notice is delivered to the provider and an opportunity for a hearing is provided. Any contract with a participating provider shall contain a provision which states that, if the Department finds that the public health, safety or welfare requires emergency action, it may assume the operations of the participating provider on notice to the participating provider and pending an administrative hearing which it shall promptly institute. Notice, hearings and actions pursuant to this subsection shall be in accordance with Article II of the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1010.6 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. No later than October 1, 1993, a task force shall be established to continue until March 31, 1994, consisting of two representatives of the Department of Human Services, to be designated by the Director of the Department of Human Services; one member of the Oklahoma State Senate designated by the President Pro Tempore of the Senate, and one member of the House of Representatives designated by the Speaker of the House of Representatives; and two representatives designated by the Governor.

B. The purpose of the task force established pursuant to subsection A of this section shall be to develop a plan to implement a comprehensive statewide eligibility system for persons applying for services pursuant to the Oklahoma Medicaid Healthcare Options Act.

C. On or before March 31, 1994, the task force shall report on the plan to the Joint Legislative Oversight Committee for the Oklahoma Medicaid Healthcare Options System. The report shall include, but not be limited to:

1. Recommendations regarding a comprehensive statewide eligibility system which maximizes administrative efficiency and accountability and which minimizes the administrative burden for persons applying and eligible for the Oklahoma Medicaid Healthcare Options System;

2. An estimate of the costs and benefits that will accrue from implementation of a comprehensive statewide eligibility system, including maximizing federal financial participation;

3. Recommendations related to minimizing the fiscal impact and estimated costs; and

4. Financial and statutory considerations for a January 1, 1995, implementation date for the comprehensive statewide eligibility system by, including but not limited to, administrative issues, personnel issues and quality control issues.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1010.7 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established to continue until September 30, 1999, the Joint Legislative Oversight Committee for the Oklahoma Medicaid Healthcare Options System.

B. The Committee shall be composed of three members of the Oklahoma State Senate, to be appointed by the President Pro Tempore of the Senate, and three members of the Oklahoma House of Representatives, to be appointed by the Speaker of the House of Representatives. Members shall serve terms of two (2) years and shall be removable for cause by the appointing authority. Vacancies on the Committee shall be filled by the appointing authority.

C. The Committee may use the expertise and services of the staffs of the Senate and the House of Representatives and may, as necessary, employ and contract for the advice and services of experts in the fields as well as other necessary professional and clerical staff.

D. The Committee shall be convened no less than four times a year.

E. The Committee, in conjunction with the state entity designated by law or the Department of Human Services, as specified in paragraph 1 of subsection A of Section 3 of this act, shall review negotiations with the federal government relating to any and all agreements between the federal government and the State of

Oklahoma concerning Title XIX programs in this state under Title XIX of the Social Security Act, 42 U.S.C., Section 1396 et seq.

F. The Committee shall review and make recommendations concerning all proposals for additions or modifications to populations covered or services provided by the state entity designated by law or the Department, as specified in paragraph 1 of subsection A of Section 3 of this act. The Committee shall also monitor the implementation of these additions or modifications, including review of the preadmission screening instrument, the eligibility and enrollment system and the services delivery system.

G. The Committee, in conjunction with the state entity designated by law or the Department, as specified in paragraph 1 of subsection A of Section 3 of this act, shall conduct a study of client advocacy and community outreach. The Committee shall submit a report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives no later than January 1, 1997.

SECTION 8. AMENDATORY 74 O.S. 1991, Section 85.12, as last amended by Section 2 of Enrolled House Bill No. 1209 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 85.12 A. The provisions of this section shall not be construed to affect any law relating to fiscal or accounting procedure except such as may be directly in conflict herewith; and all claims, warrants and bonds shall be examined, inspected and approved as now provided by law.

B. The following acquisitions shall not be included within the purview of the Oklahoma Central Purchasing Act:

1. Food and other products produced by state institutions and agencies;

2. Contracts for construction of new buildings and for the repair, maintenance or modernization of old buildings by state educational institutions included within The Oklahoma State System of Higher Education;

3. The printing or duplication of publications or forms of whatsoever kind or character by state agencies, which service is performed upon their own equipment, by their own employees;

4. Acquisitions by The Oklahoma State System of Higher Education on any institution or entity comprising the same insofar as such acquisitions relate to textbooks, laboratory supplies, instructional materials and specialized laboratory equipment;

5. Department of Transportation and Transportation Commission contractual services or right-of-way purchases. Contracts awarded pursuant to bids let by the Transportation Commission for the maintenance or construction of streets, roads, highways, bridges, or underpasses, or any other transportation facilities under the control of the Department of Transportation, the acquisitions of equipment or materials accruing to the Department of Transportation required in Federal-Aid contracts, and contracts for public service type announcements initiated by the Department of Transportation. Contractual services as used herein shall not include advertising or public relations services;

6. Utility services where rates therefor are regulated by a state or federal regulatory commission, or by city ordinance or by an Indian Tribal Council for use by the Department of Corrections only;

7. Purchases of products by Oklahoma Medical Center. The Commission for Human Services shall develop standards for the purchase of products and may elect to utilize Central Purchasing when appropriate. Such standards shall foster economy, short

response time, and include appropriate safeguards to assure appropriate competition and economical and efficient purchasing;

8. Contracts for custom harvesting by the Department of Corrections for the Department or its institutions;

9. Contracts with private prison contractors which are subject to the contracting procedures of Section 561 of Title 57 of the Oklahoma Statutes;

10. Acquisitions of aircraft by agencies authorized by the Legislature to purchase aircraft;

11. Purchases by the Oklahoma Municipal Power Authority;

12. Grand River Dam Authority;

13. Purchases by rural water, sewer, gas or solid waste management districts created pursuant to Section 1324.1 et seq. of Title 82 of the Oklahoma Statutes;

14. Purchases by the Oklahoma Ordnance Works Authority or Midwestern Oklahoma Development Authority, except that the Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority shall remain subject to the provisions of Section 85.32 of this title;

15. Contracts entered into by the Oklahoma Industrial Finance Authority for the services of an appraiser or for acquisition of insurance when it is determined by its Board of Directors that an emergency exists and for the services of legal counsel when approved by the Attorney General;

16. Contracts entered into by the State Department of Education for the purpose of implementing the provisions of Section 6-156 of Title 70 of the Oklahoma Statutes;

17. Expenditure of monies appropriated to the State Board of Education for the purpose of Local, State-supported Programs and State-supported Programs except monies appropriated for the Administrative and Support Functions of the State Department of Education;

18. Contracts entered into by the State Department of Vocational and Technical Education for the development, revision or updating of vocational curriculum materials;

19. Contracts entered into by the Oklahoma Center for the Advancement of Science and Technology for professional services;

20. Contracts entered into by the Oklahoma Department of Commerce pursuant to the provisions of Section 5009.1 et seq. of this title and Section 5066.4 of this title;

21. Purchases made by the Oklahoma Historical Society from monies used to administer the White Hair Memorial;

22. Purchases of products available to an agency through a General Services Administration contract or other federal contract if the item is on current state contract and the terms of such contract are more favorable to the agency than the terms of a state contract for the same products as determined by the State Purchasing Director;

23. Contracts for managed health care services entered into by the state entity designated by law or the Department of Human Services, as specified in paragraph 1 of subsection A of Section 3 of the Oklahoma Medicaid Healthcare Options Act;

24. Purchases of products by the Forestry Service of the State Department of Agriculture as authorized by the federal General Services Administration through a General Services Administration contract or other federal contract if the item is not on current state contract or the terms of such federal contract are more favorable to the agency than the terms of a state contract for the same products;

~~24.~~ 25. Purchases amounting to less than that requiring competitive bid pursuant to Section 85.7 of this title. The Director of Central Services shall promulgate rules related to such purchases in excess of Seven Hundred Fifty Dollars (\$750.00) and not exceeding Two Thousand Five Hundred Dollars (\$2,500.00) to ensure competitiveness and fairness in such purchases; and

~~25.~~ 26. Purchases or acquisitions of clothing for clients of the Department of Human Services and purchases and acquisitions of food for group homes operated by the Department of Human Services.

C. Notwithstanding the exclusions provided herein, any agency or common schools of Oklahoma, any municipality of the state, any rural fire protection district and county officers may, unless the contract with the state specifies otherwise, avail themselves of the provisions of the Oklahoma Central Purchasing contracts and the services of the Purchasing Director. Provided further, however, that any subdivision of government and any rural fire protection district of the state may designate the office of Oklahoma Central Purchasing as its agent for the purchase or procurement of any item or service contracted or available to the state.

D. Further, notwithstanding the exclusions provided herein, the purchasing policies and procedures of the Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority shall be subject to approval by the Director of the Department of Central Services, and said Director shall make periodic audits of the purchasing policies and procedures of the Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority to assure that said purchasing policies and procedures, as approved by him, are being followed.

SECTION 9. This act shall become effective July 1, 1993.

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

Passed the Senate the 27th day of May, 1993.

President of the Senate

Passed the House of Representatives the 27th day of May, 1993.

Speaker of the House of Representatives