STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

2ND CONFERENCE COMMITTEE
SUBSTITUTE FOR ENGROSSED
SENATE BILL NO. 811

By: Haney and Hobson of the Senate

and

Hamilton and Steidley of the House

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to delivery of health care; amending 47 O.S. 1991, Section 156, as last amended by Section 1, Chapter 128, O.S.L. 1995 (47 O.S. Supp. 1995, Section 156), which relates to state-owned automobiles; authorizing the J.D. McCarty Center for Children with Developmental Disabilities to purchase certain motor vehicles; amending Section 4, Chapter 336, O.S.L. 1993, as amended by Section 4, Chapter 204, O.S.L. 1995 (56 O.S. Supp. 1995, Section 1010.4), which relates to the Oklahoma Medicaid Healthcare Options Act; clarifying certain exemptions; amending 62 O.S. 1991, Section 195, as last amended by Section 1, Chapter 203, O.S.L. 1995 (62 O.S. Supp. 1995, Section 195), which relates to institutional petty cash funds; authorizing the J.D. McCarty Center for Children with Developmental Disabilities to create a petty cash fund; amending 63 O.S. 1991, Section 485.6, as amended by Section 3, Chapter 262, O.S.L. 1995 (63 O.S. Supp. 1995, Section 485.6), which relates to spastic paralysis; exempting certain personnel from the provisions of the Merit System of Personnel Administration; amending Section 21, Chapter 330, O.S.L. 1993 (63 O.S. Supp. 1995, Section 3221), which relates to the University Hospitals Authority Act; authorizing the expenditure of certain funds for certain purposes under certain conditions; amending Section 3, Chapter 263, O.S.L. 1995 (63 O.S. Supp. 1995, Section 3224), which relates to the University Hospitals Authority Act; providing that certain indebtedness shall not involve certain bonding capacity; requiring certain agreements to include certain provisions; providing certain remittance of certain funds upon certain determination; providing for the operation of the Authority from certain funds and specifying the use of certain funds; allowing the use of certain funds for certain costs; providing for the repayment of certain transfers and providing exemptions; directing the Oklahoma Health Care Authority to pay certain reimbursement enhancements for certain employees in certain facilities; specifying limits of the enhancements; providing for certain audits and adjustments; specifying certain employee positions to be included in the enhancements; authorizing the J.D. McCarty Center for Children with Developmental

Disabilities to construct a building on its grounds to provide certain services; providing for codification; providing for noncodification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 156, as last amended by Section 1, Chapter 128, O.S.L. 1995 (47 O.S. Supp. 1995, Section 156), is amended to read as follows:

Section 156. A. Unless otherwise provided for by law, no state board, commission, department, institution, official, or employee, except the Department of Public Safety, the Department of Human Services, the Department of Wildlife Conservation, the Department of Corrections, the State Department of Education, the Oklahoma School of Science and Mathematics, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, the Transportation Commission, the Department of Agriculture, the State Department of Health, the Department of Mental Health and Substance Abuse Services, the J.D. McCarty Center for Children with Developmental Disabilities, the Oklahoma Tourism and Recreation Department, the Oklahoma Conservation Commission, the Oklahoma Water Resources Board and the Department of Mines shall purchase any passenger automobile or bus with public funds.

B. The Oklahoma School for the Deaf at Sulphur, the Oklahoma School for the Blind at Muskogee, and any state institution of higher education may purchase, own, or keep if now owned, or acquire by lease or gift, and use and maintain such station wagons, automobiles, trucks, or buses as are reasonably necessary for the implementation of the educational programs of said institutions. No bus operated, owned, or used by such educational institutions shall be permitted to carry any person other than students, faculty members, employees, or volunteers of such institutions. The provisions of this section shall not be

construed to prohibit the operation of intracampus buses or buses routed directly between portions of the campus of any institution not adjacent to each other, nor to prohibit the collection of fares from such students, faculty members, or employees of such institutions, sufficient in amount to cover the reasonable cost of such transportation.

C. The J.D. McCarty Center for Children with Developmental Disabilities, the Oklahoma Department of Libraries, the Oklahoma Department of Veterans Affairs, and the Oklahoma Veterans Centers may own and maintain such passenger vehicles as those institutions have acquired prior to May 1, 1981.

D. The use of station wagons, automobiles, and buses, other than as provided for in this section, shall be permitted only upon written request for such use by heads of departments of the institution, approved in writing by the president of said institution or by some administrative official of said institution authorized by the president to grant said approval. Such use shall be permitted only for official institutional business or activities connected therewith. Such use shall be subject to the provisions of Sections 156.1 and 159.7 of this title forbidding personal use of such vehicles, and to the penalties therein declared.

E. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by fine or imprisonment, or both, as provided for in Section 156.1 of this title.

F. For the purpose of this section and Section 156.3 of this title, a station wagon is classified as a passenger automobile and may not be purchased solely for the use of transporting property. Such vehicles shall include, but not be limited to, all vehicles which have no separate luggage compartment or trunk but which do not have open beds, whether the same are called station wagons, vans, suburbans, town and country, blazers, or any other names. All state boards, commissions, departments, and institutions may own and maintain station wagons purchased solely for the purpose of transporting property if acquired prior to July 1, 1985.

G. The provisions of this section and Section 156.1 of this title shall not apply to public officials who are statewide elected commissioners.

SECTION 2. AMENDATORY Section 4, Chapter 336, O.S.L. 1993, as amended by Section 4, Chapter 204, O.S.L. 1995 (56 O.S. Supp. 1995, Section 1010.4), is amended to read as follows:

Section 1010.4 A. The Oklahoma Health Care Authority 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;

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 Authority 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 Authority 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 Authority 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 Authority 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~~, authorized pursuant to paragraph 2 of subsection A of Section 1010.3 of Title 56 of the Oklahoma Statutes and necessary to implement the System, and other contracts entered into prior to July 1, 1996, shall not be subject to the provisions of the Oklahoma Central Purchasing Act.

G. The Board shall promulgate rules:

1. Establishing appropriate competitive bidding criteria and procedures for contracts awarded pursuant to the Oklahoma Medicaid Healthcare Options Act;

2. 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; and

3. 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 3. AMENDATORY 62 O.S. 1991, Section 195, as last amended by Section 1, Chapter 203, O.S.L. 1995 (62 O.S. Supp. 1995, Section 195), is amended to read as follows:

Section 195. A. 1. There is hereby created a petty cash fund at each of the following institutions: Oklahoma School for the Blind, Muskogee, Oklahoma; Oklahoma School for the Deaf, Sulphur, Oklahoma; Griffin Memorial Hospital, Norman, Oklahoma; Eastern State Hospital, Vinita, Oklahoma; Northern Oklahoma Resource Center of Enid, Enid, Oklahoma; Southern Oklahoma Resource Center of Pauls Valley, Pauls Valley, Oklahoma; Western State Psychiatric Center, Fort Supply, Oklahoma; Central Oklahoma Juvenile Treatment Center, Tecumseh, Oklahoma; Hissom Memorial Center, Sand Springs, Oklahoma; L.E. Rader Children's Diagnostic and Evaluation Center, Sand Springs, Oklahoma; L.E. Rader Intensive Treatment Center, Sand Springs, Oklahoma; ~~and~~ the Oklahoma Medical Center; and the J.D. McCarty Center for Children with Developmental Disabilities.

2. The Director of State Finance and the head of the institution involved are hereby authorized and it shall be their duty to fix the maximum amount of the petty cash funds. The Director of State Finance shall prescribe all forms, systems, and procedures for administering the petty cash funds of the institution.

B. 1. There is hereby created a petty cash fund in the legal division of the Department of Human Services which fund shall be used solely to pay court costs, filing fees, witness fees, and

expenses related to any case or proceeding within the responsibility of the legal division.

2. There is hereby created a petty cash fund in the Child Support Enforcement Division of the Department of Human Services. The fund shall be used solely to pay litigation expenses, including court costs, filing fees, witness fees, and expenses related to any case or proceeding within the responsibility of the Child Support Enforcement Division.

3. The Director of State Finance, and the Director of the Department of Human Services are hereby authorized and it shall be their duty to fix the maximum amount of the petty cash funds. The Director of State Finance shall prescribe all forms, systems, and procedures for administering the petty cash funds.

C. 1. There is hereby created a petty cash fund in the finance department of the Oklahoma Corporation Commission which shall be used solely to pay litigation expenses of the legal division, including court costs, filing fees, witness fees, and other expenses related to any case, proceeding, or matter within the responsibility of the legal division.

2. The Director of State Finance and the Corporation Commission are hereby authorized and it shall be their duty to fix the maximum amount of the petty cash fund, not to exceed Five Hundred Dollars ($500.00). The Director of State Finance shall prescribe all forms, systems, and procedures for administering the petty cash fund.

D. 1. There is hereby created a petty cash fund for the Property Distribution Division of the Department of Central Services.

2. The amount of the Property Distribution petty cash fund shall not exceed Five Hundred Dollars ($500.00). The initial amount shall be drawn by warrant from the State Surplus Property Revolving Fund. The Director of State Finance and the Director of the Department of Central Services are authorized to prescribe forms, systems and procedures for the administration of the Property Distribution petty cash fund.

SECTION 4. AMENDATORY 63 O.S. 1991, Section 485.6, as amended by Section 3, Chapter 262, O.S.L. 1995 (63 O.S. Supp. 1995, Section 485.6), is amended to read as follows:

Section 485.6 A. The members of the Oklahoma Cerebral Palsy Commission shall select from among the members of the Commission a ~~Chairman~~ chair and a secretary, and organize itself for the purpose of carrying out the provisions of Section 485.1 et seq. of this ~~act~~ title.

B. The Commission is hereby authorized in its discretion to employ a director and such other professional and nonprofessional personnel as may be required in ~~their~~ its estimation to carry out the provisions of this act and to fix the salaries or compensation of all such personnel so employed by ~~them~~ the Commission; provided that physical therapists, physical therapist assistants, occupational therapists, certified occupational therapist aides and speech pathologists so employed shall be unclassified and exempt from the provisions of the Merit System of Personnel Administration. The Commission is authorized to hire an attorney to provide legal assistance or to contract for such specialized services only as provided for in Section 485.3 of this title.

SECTION 5. AMENDATORY Section 21, Chapter 330, O.S.L. 1993 (63 O.S. Supp. 1995, Section 3221), is amended to read as follows:

Section 3221. A. There is hereby created in the State Treasury a revolving fund for the University Hospitals Authority, to be designated the "University Hospitals Authority Disbursing Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of appropriated revenues and federal entitlements. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the University Hospitals Authority.

B. Following the execution of a lease of real properties under the jurisdiction of the University Hospitals Authority to the University Hospitals Trust pursuant to Section 3226 of this title, monies from the fund may be expended by the Authority for the fiscal year ending June 30, 1997, for the operations of the

Authority after the execution of the lease to the University Hospitals Trust for payment of any costs to the Authority associated with the transfer of operations of facilities under the jurisdiction of the Authority, and legal obligations of the Authority. After July 1, 1997, the operation of the Authority shall be funded solely from the interest earned by the fund. The principal of the fund shall be reserved in the event that the state resumes operations of any of the facilities operated by the Authority prior to a lease being executed.

SECTION 6. AMENDATORY Section 3, Chapter 263, O.S.L. 1995 (63 O.S. Supp. 1995, Section 3224), is amended to read as follows:

Section 3224. A. The State of Oklahoma expressly approves the creation of a public trust to be denominated the "University Hospitals Trust", of which the State of Oklahoma shall be the beneficiary, provided such approval shall be contingent upon the following conditions being satisfied:

1. Finalizing of the Declaration of Trust;

2. Adoption of the Declaration of Trust by an official action of the trustees of the Trust;

3. Submission of the Trust for acceptance of the beneficial interest and approval as required by Section 177 of Title 60 of the Oklahoma Statutes; and

4. The approved Declaration of Trust shall:

a. clearly state that the principal purpose of the University Hospitals Trust is to effectuate the purposes of the University Hospitals Authority as established in the University Hospitals Authority Act,

b. except as otherwise provided by law, provide that the title to real property held by the University Hospitals Authority shall not be transferred, conveyed, or assigned to the University Hospitals Trust without the express consent of the Legislature as the governing entity of the beneficiary pursuant to Section 176 of Title 60 of the Oklahoma Statutes,

c. provide that any indebtedness incurred by the University Hospitals Trust or the trustees of the Trust shall not be secured with or create a lien upon real property to which title is held by the University Hospitals Authority and shall not involve the bonding capacity of the University Hospitals Authority,

d. provide that the trust estate of the University Hospitals Trust shall not include real property to which fee simple title is held by the University Hospitals Authority,

e. clearly state that the creation of the University Hospitals Trust shall not in any way reduce, limit or interfere with the power granted to the University Hospitals Authority in the University Hospitals Authority Act,

f. provide that any lease or contractual agreement involving use of the real property to which title is held by the University Hospitals Authority and any improvements thereto shall contain a provision and covenants requiring the proper maintenance and upkeep of the real property and improvements,

g. provide that the trustees of the University Hospitals Trust shall be the acting members of the University Hospitals Authority as provided in the University Hospitals Authority Act, and

h. provide that the trustees of the University Hospitals Trust shall have the duty to submit an annual report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The report shall be submitted by January 1 of each year and shall include an account of all operations, actions of the Trust, account of all revenue received and disbursed by the Trust for the previous fiscal year. The report shall also provide a complete accounting of how the

Trust meets its primary function of effectuating the purposes of the the University Hospitals Authority, as established in the University Hospitals Authority Act.

B. The University Hospitals Trust shall require any agreements which it enters into with any entity pursuant to Section 3226 of this title for the operations of facilities leased by the University Hospitals Authority to the Trust to include, but not be limited to:

1. The inclusion of four of the five members of the Trust as four of the five members representing the State of Oklahoma in a governing entity;

2. Binding arbitration shall not be involved in such agreements for resolving issues under consideration by the governing entity; and

3. Major decisions to be resolved by a majority of the state appointees. Major decisions shall include, but not be limited to:

a. approval of the operating and capital budgets,

b. sale or disposition of assets over Two Hundred Fifty Thousand Dollars ($250,000.00), and

c. significant program changes at the University Hospitals.

C. To the extent it is determined by legislative enactment that the Trust has expended funds in contravention of its mission as set forth in this section, the Trust shall remit, upon thirty (30) days written notice from the University Hospitals Authority, such sum or sums to the University Hospitals Authority.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3227.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

Any monies transferred from the University Hospitals Authority to the University Hospitals Trust Revolving Fund created by Section 38 of Enrolled Senate Bill No. 810 of the 2nd Session of the 45th Oklahoma Legislature may be used to pay any costs related to the severance of former employees of the University Hospitals Authority who are terminated due to a reduction in force by the

entity operating the facilities of the Authority pursuant to Section 3226 of Title 63 of the Oklahoma Statutes and not disapproved by the Contingency Review Board pursuant to Section 3225 of Title 63 of the Oklahoma Statutes or for any other purposes for which the University Hospitals Trust was authorized. The sum of any transfers of monies from the Authority to the Trust shall be repaid by the Trust on or before December 31, 2002, less the sum of monies expended by the University Hospitals Trust for severance costs pursuant to this section.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5022 of Title 63, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Health Care Authority shall grant a wage and salary adjustment (including employee benefits) to be paid as an enhancement to the facility per diem for specified employees in nursing facilities serving adults (NFs) and intermediate care facilities for the mentally retarded (ICFs/MR) effective May 1, 1997. The adjustment shall not exceed Three Dollars and fifteen cents ($3.15) per patient day (PPD) for NFs, Four Dollars and twenty cents ($4.20) PPD for standard private ICFs/MR, and Five Dollars and fifteen cents ($5.15) PPD for specialized private ICFs/MR. The wage enhancement expenditures paid by the facilities shall be audited quarterly against base period expenditures for the fiscal year ending June 30, 1997, for the specified employees. Not later than forty-five (45) days following the end of each calendar quarter, the Oklahoma Health Care Authority shall make an adjustment between the enhancement payments (the maximum) and the average actual cost (if less) as reported by the facility during the preceding quarter. The specified employee positions to be covered under this section shall be limited to the following: licensed practical nurse, nurse aide, certified medication aide, social service director, other social service staff, activities director, social worker, therapy aide assistant, and activities staff.

SECTION 9. The J.D. McCarty Center for Children with Developmental Disabilities is authorized, within the funds

available, to construct a building on the grounds of the Center to provide outpatient services to its patients.

SECTION 10. NONCODIFICATION The provisions of Section 9 of this act shall not be codified in the Oklahoma Statutes.

SECTION 11. This act shall become effective July 1, 1996.

SECTION 12. 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.

45-2-3032 TKW