

ENGROSSED HOUSE
BILL NO. 1594

By: Anthony and Toure of the
House

and

Monson of the Senate

An Act relating to poor persons; amending Sections 2, 4 and 5, Chapter 336, O.S.L. 1993, and Section 3, Chapter 336, O.S.L. 1993, as amended by Section 1, Chapter 282, O.S.L. 1994 (56 O.S. Supp. 1994, Sections 1010.2, 1010.3, 1010.4 and 1010.5), which relate to the Oklahoma Medicaid Healthcare Options System; updating language; modifying date; requiring specific contract approval for certain contracts; amending Section 4, Chapter 332, O.S.L. 1993, Section 5, Chapter 332, O.S.L. 1993, as amended by Section 2, Chapter 282, O.S.L. 1994 and Section 6, Chapter 332, O.S.L. 1993, as amended by Section 46, Chapter 382, O.S.L. 1994 (63 O.S. Supp. 1994, Sections 5006, 5007 and 5008), which relate to the powers and duties of the Oklahoma Health Care Authority; requiring specific contract approval for certain contracts; clarifying appointments and qualifications of Administrator; deleting requirement concerning appointments to the Authority; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 2, Chapter 336, O.S.L. 1993 (56 O.S. Supp. 1994, Section 1010.2), is amended to read as follows:

Section 1010.2 A. As used in the Oklahoma Medicaid Healthcare Options Act:

1. "~~Department~~ Authority" means the ~~Department of Human Services~~ Oklahoma Health Care Authority;
2. "~~Commission~~ Board" means the ~~Commission for Human Services~~ Oklahoma Health Care Authority Board;
3. "~~Director~~ Administrator" means the ~~Director of the Department of Human Services~~ chief executive officer of the Oklahoma Health Care Authority;
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,~~ Authority 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 2. AMENDATORY Section 3, Chapter 336, O.S.L. 1993, as amended by Section 1, Chapter 282, O.S.L. 1994 (56 O.S. Supp. 1994, Section 1010.3), is amended to read as follows:

Section 1010.3 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~~ the Oklahoma Health Care Authority shall be responsible 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~~ Oklahoma Health Care Authority and shall 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.~~ The highest priority shall be given to the development of prepaid capitated health plans. ~~Provided further~~ provided, that prepaid capitated health plans shall be the only managed care model offered in the high density population 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~~ 1996, managed care plans shall be developed for 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, managed care plans shall be developed for all participants categorized as aged, blind or disabled; and

3. On or before July 1, 1999, managed care plans shall be developed for all participants who are institutionalized or who are seriously and persistently mentally ill.

D. The ~~designated state Medicaid agency~~ Oklahoma Health Care Authority 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 only be used for eye care, dental care, medical care and related services for eligible persons.

E. Effective July 1, ~~1995~~ 1996, except as specifically required by federal law, the System shall only be responsible for providing care on or after the date that a 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 3. AMENDATORY Section 4, Chapter 336, O.S.L. 1993 (56 O.S. Supp. 1994, Section 1010.4), is amended to read as follows:

Section 1010.4 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,~~ 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; ~~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,~~ 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 ~~state entity designated by law or the Department, as specified in paragraph 1 of subsection A of Section 3 of this act,~~ 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 ~~state entity designated by law or the Department, as specified in paragraph 1 of subsection A of Section 3 of this act,~~ 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 state entity designated by law or the Department, as specified in paragraph 1 of subsection A of Section 3 of this act,~~ 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 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.~~ Contracts for managed health care plans shall be specifically approved by the Oklahoma Health Care Authority Board. Other contracts necessary to implement the System may be approved by the Administrator as authorized by the Board.

G. ~~The state entity designated by law or the Commission, as specified in paragraph 1 of subsection A of Section 3 of this act,~~ Board shall promulgate rules ~~establishing:~~

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

~~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~~ 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 4. AMENDATORY Section 5, Chapter 336, O.S.L. 1993 (56 O.S. Supp. 1994, Section 1010.5), is amended to read as follows:

Section 1010.5 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,~~ Oklahoma Health Care Authority 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,~~ Authority 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,~~ Oklahoma Health Care Authority Board 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, 3. Authorization for the Authority 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; and~~~~

4. Requirement that, if the ~~Department~~ Authority 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.~~

B. Any contract executed pursuant to the provisions of this section for managed health care plans shall be specifically approved by the Oklahoma Health Care Authority Board.

SECTION 5. AMENDATORY Section 4, Chapter 332, O.S.L. 1993 (63 O.S. Supp. 1994, Section 5006), is amended to read as follows:

Section 5006. A. There is hereby created the Oklahoma Health Care Authority. The Authority shall have the power and duty to:

1. Purchase health care benefits for state and education employees and Medicaid recipients, and others who are dependent on the state for necessary medical care, as specifically authorized by law;

2. Develop state and education employee health care plans as authorized by Section ~~9~~ 5011 of this ~~act~~ title;

3. Enter into contracts specifically approved pursuant to the Oklahoma Health Care Authority Act and the Oklahoma Medicaid Health Care Options System for the delivery of state-purchased health care and establish standards and criteria which must be met by entities to be eligible to contract with the Authority for the delivery of state-purchased health care;

4. Develop a proposed standard basic health care benefits package or packages to be offered by health services providers, for state and education employees and Medicaid recipients;

5. Study all matters connected with the provision of state-purchased and state-subsidized health care coverage;

6. Develop and submit plans, reports and proposals, provide information and analyze areas of public and private health care interaction pursuant to the provisions of the Oklahoma Health Care Authority Act;

7. Serve as a resource for information on state-purchased and state-subsidized health care access, cost containment and related health issues;

8. Administer programs and enforce laws placed under the jurisdiction of the Authority pursuant to the Oklahoma Health Care Authority Act, and such other duties prescribed by law;

9. Collaborate with and assist the Insurance Commissioner in the development of a Uniform Claim Processing System for use by third-party payors and health care providers;

10. Collaborate with and assist the State Department of Health with the development of licensure standards and criteria for pre-paid health plans; and

11. Exercise all incidental powers which are necessary and proper to carry out the purposes of the Oklahoma Health Care Authority Act.

B. All positions within the Authority shall be unclassified until approval of the annual business and personnel plan submitted by January 1, 1995, by the Governor and the Legislature. In the annual business plan submitted January 1, 1995, the Board shall include a personnel plan which shall list, describe and justify all unclassified positions within the Authority and their compensation. All other employees and positions shall be classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act.

SECTION 6. AMENDATORY Section 5, Chapter 332, O.S.L. 1993, as amended by Section 2, Chapter 282, O.S.L. 1994 (63 O.S. Supp. 1994, Section 5007), is amended to read as follows:

Section 5007. A. There is hereby created the Oklahoma Health Care Authority Board. ~~On and after the effective date of this act,~~ ~~as~~ As the terms of the initially appointed members expire, the Board shall be composed of seven appointed members who shall serve for terms of four (4) years and shall be appointed as follows:

1. Two members shall be appointed by the President Pro Tempore of the Senate;

2. Two members shall be appointed by the Speaker of the House of Representatives; and

3. Three members shall be appointed by the Governor; provided, one of the members appointed by the Governor shall be a consumer who shall have no financial or professional interest in medical care, health care services, health care delivery, health care finance, health insurance or managed health care.

B. Members appointed pursuant to this paragraph, with the exception of the consumer member, shall include persons having experience in medical care, health care services, health care delivery, health care finance, health insurance and managed health care. In making the appointments, the appointing authority shall also give consideration to urban, rural, gender and minority representation.

~~C. On and after the effective date of this act, any subsequently appointed administrator of the Authority shall be appointed by the Board. The administrator shall have the training and experience necessary for the administration of the Authority, as determined by the Board, including, but not limited to, prior experience in the administration of managed health care. The administrator shall serve at the pleasure of the Board~~ As the terms of office of members appointed before July 1, 1995, expire, appointments made on or after July 1, 1995, shall be subject to the following requirements:

1. One member appointed by the Governor shall be a resident of the First Congressional District;

2. One member appointed by the President Pro Tempore of the Senate shall be a resident of the Second Congressional District;

3. One member appointed by the President Pro Tempore of the Senate shall be a resident of the Third Congressional District;

4. One member appointed by the Speaker of the House of Representatives shall be a resident of the Fourth Congressional District;

5. One member appointed by the Speaker of the House of Representatives shall be a resident of the Fifth Congressional District;

6. One member appointed by the Governor shall be a resident of the Sixth Congressional District; and

7. The consumer member appointed by the Governor shall be appointed at large.

D. The Board shall have the power and duty to:

1. Establish the policies of the Oklahoma Health Care Authority;

2. Appoint the Administrator of the Authority;

3. Adopt and promulgate rules as necessary and appropriate to carry out the duties and responsibilities of the Authority. The Board shall be the rulemaking body for the Authority; and

~~3.~~ 4. Adopt, publish and submit by January 1 of each year to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives appropriate administrative policies and the business plan for that year. All actions governed by said administrative policies and annual business plan shall be examined annually in an independent audit.

E. 1. A vacancy in a position shall be filled in the same manner as provided in subsection A of this section.

2. A majority of the members of the Board shall constitute a quorum for the transaction of business and for taking any official action. Official action of the Board must have a favorable vote by a majority of the members present.

3. Members appointed pursuant to subsection A of this section shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties in accordance

with the State Travel Reimbursement Act, ~~Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.~~

F. The Board and the Authority shall act in accordance with the provisions of the Oklahoma Open Meeting Act, ~~Section 301 et seq. of Title 25 of the Oklahoma Statutes,~~ the Oklahoma Open Records Act, ~~Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes,~~ and the Administrative Procedures Act, ~~Section 250.1 et seq. of Title 75 of the Oklahoma Statutes.~~

SECTION 7. AMENDATORY Section 6, Chapter 332, O.S.L. 1993, as amended by Section 46, Chapter 382, O.S.L. 1994 (63 O.S. Supp. 1994, Section 5008), is amended to read as follows:

Section 5008. A. The Administrator of the Authority shall have the training and experience necessary for the administration of the Authority, as determined by the Oklahoma Health Care Authority Board, including, but not limited to, prior experience in the administration of managed health care. The Administrator shall serve at the pleasure of the Board.

B. The Administrator ~~of the Authority~~ shall be the Chairman of the Health Care Authority Board and shall be the chief executive officer of the Authority and shall act for the Authority in all matters except as may be otherwise provided by law.

C. The powers and duties of the Administrator shall include but not be limited to:

1. Supervision of the activities of the Authority;
2. Formulation and recommendation of rules for approval or rejection by the Board and enforcement of rules and standards promulgated by the Board;
3. Preparation of the plans, reports and proposals required by the Health Care Authority Act, other reports as necessary and appropriate, and an annual budget for the review and approval of the Board; and

4. Employment of such staff as may be necessary to perform the duties of the Authority including but not limited to an attorney to provide legal assistance to the Authority for the Medicaid program.

~~B.~~ The administrator shall establish Establishment of a contract bidding process that encourages competition among entities contracting with the Authority for state-purchased and state-subsidized health care, is timely to the state budgetary process, and sets conditions for awarding contracts to any insuring entity. Contracts for managed health care plans shall be specifically approved by the Oklahoma Health Care Authority Board. Other contracts necessary to implement the System may be approved by the Administrator as authorized by the Board.

~~C.~~ D. The Administrator may appoint advisory committees as necessary to assist the Authority with the performance of its duties or to provide the Authority with expertise in technical matters.

~~D.~~ E. The Administrator shall appoint a committee composed of representatives of the State Department of Health, the Department of Mental Health and Substance Abuse Services, the Department of Human Services, the Office of the Insurance Commissioner, the State Insurance Fund, the Oklahoma Basic Health Benefits Board, the Department of Veterans Affairs, the Physicians Manpower Training Commission and other appropriate state agencies to assist with the preparation of a proposed plan for the transfer of other entities to the authority and continued sharing of data and resources by these entities.

1. Each agency on the committee shall designate an individual to serve as its representative on the committee.

2. The proposal shall be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives on or before January 1, 1994.

SECTION 8. 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 House of Representatives the 13th day of March, 1995.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate