

ENGROSSED SENATE
BILL NO. 372

By: Monson of the Senate
and
Thomas of the House

An Act relating to poor persons and public health and safety; amending 56 O.S. 1991, Sections 168, as last amended by Section 1, Chapter 233, O.S.L. 1994 and 183, as amended by Section 1, Chapter 16, O.S.L. 1994 (56 O.S. Supp. 1994, Sections 168 and 183), which relate to procedures for appeal by an applicant and confidentiality and inspection of certain applications and records; eliminating certain time requirement; providing for appeal of certain decision; requiring hearing decision be final unless review is requested; allowing appeal of certain Director's decision; subjecting certain hearing discussion to review by the chief executive officer of the Oklahoma Health Care Authority; requiring request for review be timely and on certain form; requiring chief executive officer to issue decision after review or refer review to designee; requiring referral of decision be based upon certain criteria; requiring hearing decision of the Department of Human Services be final unless review is requested; allowing appeal of chief executive officer's decision within certain time period; allowing petition for judicial review; requiring notice by mail; requiring the Department

of Human Services to maintain certain process for review of certain information; defining term; providing for confidentiality of certain applications and records; requiring the Oklahoma Health Care Authority to maintain certain process for review of certain information; defining certain phrase; specifying which applications and records are considered confidential; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 56 O.S. 1991, Section 168, as last amended by Section 1, Chapter 233, O.S.L. 1994 (56 O.S. Supp. 1994, Section 168), is amended to read as follows:

Section 168. A. Any applicant or recipient adversely affected by a decision of the Department of Human Services on benefits or services provided pursuant to the provisions of this title, shall be afforded an opportunity for a hearing pursuant to the provisions of subsection B of this section after such applicant or recipient has been notified of the adverse decision of the Department.

B. 1. Upon timely receipt of a request for a hearing as specified in the notice of adverse decision, the Department shall hold a hearing pursuant to the provisions of Article II of the Administrative Procedures Act, Section ~~310~~ 308a et seq. of Title 75 of the Oklahoma Statutes.

2. The record of the hearing shall include but shall not be limited to:

- a. all pleadings, motions, and intermediate rulings~~†~~
- b. evidence received or considered~~†~~

- c. any decision, opinion, or report by the officer presiding at the hearing~~er~~, and
- d. all staff memoranda or data submitted to the hearing officer or members of the agency in connection with their consideration of the case.

3. Oral proceedings shall be electronically recorded by the Department. Any party may request a copy of the tape recording of their administrative hearing or may request a transcription of the tape recording to comply with any federal or state law.

C. Any decision of the Department, other than a decision involving eligibility under the Medicaid Program as provided in subsection E of this section, after such a hearing pursuant to subsection B of this section shall be subject to review by the Director of Human Services upon a timely request for review by the applicant or recipient. ~~Within thirty (30) days of the decision of the Department, the~~ The Director shall issue a decision after review or may refer ~~the~~ review of the hearing decision to the Commission for Human Services. The referral shall be based on criteria established by the Commission. A hearing decision of the Department shall be final and binding unless a review is requested pursuant to the provisions of this subsection. The ~~final~~ Director's decision may be appealed to the district court in which the applicant or recipient resides within thirty (30) days of the ~~final decision date~~ of the Director's decision as provided by the provisions of subsection D of this section.

D. Any applicant or recipient under this title aggrieved by ~~any final~~ a decision of the Director rendered pursuant to this section may petition the district court in which the applicant or recipient resides for a judicial review of the decision pursuant to the provisions of Sections 318 through 323 of Title 75 of the Oklahoma Statutes. A copy of the petition shall be served by mail upon the General Counsel of the Department.

E. If the Department's hearing decision involves eligibility under the Medicaid Program, then the hearing decision rendered pursuant to subsection B of this section shall be subject to review by the chief executive officer of the Oklahoma Health Care Authority, hereinafter referred to as "Authority". Any request for review by the chief executive officer by an applicant or recipient shall be timely and made upon a review request form provided by the Authority. The chief executive officer shall issue a decision after review or may refer the review of the hearing decision to a designee. Any referral or decision shall be made based upon criteria established by the Authority.

A hearing decision of the Department shall be final and binding unless a review is requested pursuant to the provisions of this subsection. The chief executive officer's decision or the decision of the designee may be appealed to the district court in which the applicant or recipient resides within thirty (30) days of the date of the decision of the chief executive officer or the designee.

F. An applicant or recipient under the Medicaid Program aggrieved by a decision of the chief executive officer or the designee rendered pursuant to this section may petition the district court in which the applicant or recipient resides for judicial review of the decision pursuant to the provisions of Sections 318 through 323 of Title 75 of the Oklahoma Statutes. A copy of the petition shall be served by mail upon the chief executive officer of the Authority.

SECTION 2. AMENDATORY 56 O.S. 1991, Section 183, as amended by Section 1, Chapter 16, O.S.L. 1994 (56 O.S. Supp. 1994, Section 183), is amended to read as follows:

Section 183 A. All applications, information and records concerning any applicant or recipient obtained pursuant to law or as authorized by law by the Department of Human Services or any other

public or private entity shall be confidential and shall be open to inspection only:

1. To persons duly authorized by the Department of Human Services pursuant to rule promulgated in compliance with Article I of the Administrative Procedures Act or by the United States in connection with the performance of their official duties; or

2. As otherwise authorized by law.

Provided, however, the Department of Human Services shall maintain a process to allow an authorized representative of a client of the Department of Human Services to have access to confidential information when necessary for eligibility determination and the appeals process. For purposes of this section, "authorized representative" shall mean any person designated by a client of the Department of Human Services to review confidential information about the client pertinent to eligibility determination and the appeals process.

B. It shall be unlawful and a misdemeanor for any public officer or employee, to furnish or permit to be taken off of the records any information therein contained for commercial or political purposes.

C. It shall also be unlawful and a felony, punishable by imprisonment in the State Penitentiary for not to exceed two (2) years, for any person, firm or corporation to publish, or to use for commercial or political purposes, any list or names obtained through access to such information or records.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5017 of Title 63, unless there is created a duplication in numbering, reads as follows:

All applications and records concerning any applicant or recipient under the Medicaid Program shall be confidential and shall be open to inspection only to persons duly authorized by the Oklahoma Health Care Authority, this state, or the United States,

and for purposes directly related to plan administration. Provided, however, the Oklahoma Health Care Authority shall maintain a process to allow an authorized representative of a client of the State Medicaid Program to have access to confidential information when necessary for eligibility determination and the appeals process. For purposes of this section, "authorized representative" shall mean any person designated by a client of the State Medicaid Program to review confidential information about the client pertinent to eligibility determination and the appeals process. For purposes of this section, "purposes directly related to plan administration" means establishing eligibility, determining the amount of medical assistance, providing services to recipients, conducting or assisting with an investigation or prosecution, or civil or criminal proceedings in relation to the administration of the State Medicaid Program.

Applications and records considered confidential are those which disclose:

1. The name and address of the recipient;
2. The medical services provided;
3. The recipient's social and economic circumstances;
4. The agency's evaluation of personal information;
5. The medical data which includes but is not limited to diagnosis and past history of disease and disability; and
6. Any information received for the purpose of verifying income eligibility and determining the amount of medical assistance payments.

SECTION 4. 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 8th day of March, 1995.

President of the Senate

Passed the House of Representatives the ____ day of
_____, 1995.

Speaker of the House of
Representatives