

ENROLLED HOUSE
BILL NO. 2497

By: Anthony, Widener, Ervin
and Eddins of the House

and

Robinson of the Senate

An Act relating to health care; amending Section 3, Chapter 336, O.S.L. 1993, as last amended by Section 3, Chapter 204, O.S.L. 1995 (56 O.S. Supp. 1995, Section 1010.3), which relates to the Oklahoma Medicaid Healthcare Options System; extending date for enrollment of certain participants; prohibiting Oklahoma Health Care Authority from submitting certain Medicaid waiver; amending Section 11, Chapter 330, O.S.L. 1993, as last amended by Section 2, Chapter 263, O.S.L. 1995 (63 O.S. Supp. 1995, Section 3211), which relates to the University Hospitals Authority Act; providing a certain exception; requiring the Authority to comply with certain provisions of law under certain circumstances; making the Authority subject to Merit System in certain circumstances; requiring the Authority to develop and implement a staffing component; allowing the Authority to take certain action upon termination of the lease; amending Sections 3, 4 and 5, Chapter 263, O.S.L. 1995 (63 O.S. Supp. 1995, Sections 3224, 3225 and 3226), which relate to the University Hospitals Authority; requiring submission of certain annual report to the Task Force; creating the University Hospitals Trust Legislative Advisory Task Force; providing for membership of Task Force; providing for chair and vice-chair; providing for reimbursement; stating purpose of the Task Force; authorizing transfer and conveyance of title and possession of certain property in certain circumstances; requiring review of the contract by the Contingency Review Board; authorizing certain agreement for performance of indigent care service in certain circumstances; providing certain exemptions for agreement; requiring an independent statement of fairness regarding proposed contractual agreement; amending 74 O.S. 1991, Section 840.8, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 22 of Enrolled House Bill No. 2428 of the 2nd Session of the 45th Oklahoma Legislature, which relates to the Oklahoma Personnel Act; providing for certain exemption from classified service; providing for noncodification; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 3, Chapter 336, O.S.L. 1993, as last amended by Section 3, Chapter 204, O.S.L. 1995 (56 O.S. Supp. 1995, 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, 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.

2. The System shall be administered by the 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. The highest priority shall be given to the development of prepaid capitated health plans 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 January 1, 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~~ 1997, 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 Oklahoma Health Care Authority shall apply for any 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, 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 2. The Oklahoma Health Care Authority shall not submit a federal Medicaid waiver for managed care plans for participants who are institutionalized or who are seriously and persistently mentally ill prior to October 1, 1997.

SECTION 3. AMENDATORY Section 11, Chapter 330, O.S.L. 1993, as last amended by Section 2, Chapter 263, O.S.L. 1995 (63 O.S. Supp. 1995, Section 3211), is amended to read as follows:

Section 3211. A. Employees of the University Hospitals who are in the classified service of the State Merit System of Personnel Administration on June 30, 1993, shall be transferred to the University Hospitals Authority without change or loss of pay, seniority, rights, privileges or benefits.

B. Employees of the University Hospitals who are in the unclassified service of the State Merit System of Personnel Administration on June 30, 1993, shall be transferred to the Authority without change or loss of pay, seniority, rights, privileges or benefits.

C. By January 1, 1995, all employees of the Authority shall be required to elect whether to remain in their present classification pursuant to the Oklahoma Personnel Act or transfer to the University Hospitals Authority Model Personnel System established pursuant to subsection E of this section. Any employee who elected not to transfer to the University Hospitals Authority Model Personnel System pursuant to this subsection may elect to transfer to the personnel system at any time ~~after the effective date of this act~~ as prescribed by the Authority.

D. All new employees hired by the University Hospitals or the Authority and all positions vacated by classified employees of the University Hospitals and/or the Authority after June 30, 1993, shall be in the personnel system established pursuant to subsection E of this section.

E. The Except as otherwise provided in Section 4 of this act, the Authority shall develop, maintain or revise unclassified personnel systems, classes or procedures which are necessary for accommodating or responding to its human resource needs. Such authority includes recruitment, position classifications, qualifications, selection criteria, search and selection procedures, use of consultants, salaries, benefits, retirement plans, leave benefits and personnel administration. Such systems, classes or procedures shall require consultation with the Administrator of the Office of Personnel Management.

F. Employees of the University Hospitals Authority who are members of the University Hospitals Authority Model Personnel System who become subject to the classified or unclassified service of state government shall be eligible to transfer any unused leave balances. Unused paid-time-off leave shall be converted to annual leave. Unused extended illness leave shall be converted to sick leave. Such transfer of leave shall be subject to accumulation limits pursuant to Section 840-2.20 of Title 74 of the Oklahoma Statutes.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3213.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. If the University Hospitals Authority enters into a lease for the University Hospital and Children's Hospital of Oklahoma with the University Hospitals Trust as authorized in Section 3226 of Title 63 of the Oklahoma Statutes and the Authority enters into an agreement or contract with another entity for the purpose of performing services previously provided by the Authority which results in a reduction in the number of employees of the Authority, the following shall occur:

1. The Authority shall be subject to the Merit System of Personnel Administration. All positions and personnel of the University Hospitals Authority shall be placed in the classified

service of the Merit System of Personnel Administration pursuant to Section 840-4.2 of Title 74 of the Oklahoma Statutes, except for the chief administrative officer, a deputy or principal assistant, and an executive secretary; and

2. The Authority shall develop and implement a staffing component, which may include contracts for professional services, to ensure that the terms of any lease or other agreements between the University Hospitals Trust and other entities are fulfilled, particularly in regard to the missions of the Authority. The Authority staff shall provide any staff assistance required by the University Hospitals Trust authorized by Section 3224 of Title 63 of the Oklahoma Statutes.

B. Upon termination of a lease with the University Hospitals Trust and the resumption of the operation of the University Hospital or the Children's Hospital of Oklahoma by the University Hospitals Authority, the Authority, at its discretion, may elect to resume the University Hospitals Authority Model Personnel System as provided for in Section 3211 of Title 63 of the Oklahoma Statutes.

SECTION 5. 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,
 - 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 and members of the Task Force created by subsection B of this section. 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 University Hospitals Authority, as established in the University Hospitals Authority Act. The Trust shall meet with the Task Force created in subsection B of this section to review the contents of the annual report.

B. There is hereby created the "University Hospitals Trust Legislative Advisory Task Force".

1. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each appoint three legislators from their respective legislative bodies, provided that they shall each appoint one member from the minority party.

2. The chair and vice-chair position shall rotate between the House of Representatives and Senate, provided that the Speaker shall appoint the initial chair whose term shall expire on the first day of the First Regular Session of the Forty-sixth Oklahoma Legislature. The chair and vice-chair shall rotate on the first day of the first regular sessions of subsequent legislatures.

3. Members of the Task Force shall be reimbursed by their respective legislative bodies for necessary duties related to the Task Force pursuant to Section 456 of Title 74 of the Oklahoma Statutes.

4. The purpose of the Task Force is to provide a means of communication between the Legislature and the University Hospitals Trust. The Trust shall invite members to attend meetings of the Trust. Task Force members shall be able to participate in discussions of the Trust in an advisory capacity.

SECTION 6. AMENDATORY Section 4, Chapter 263, O.S.L. 1995 (63 O.S. Supp. 1995, Section 3225), is amended to read as follows:

Section 3225. Contingent upon the creation of the University Hospitals Trust as provided in Section ~~3~~ 3224 of this ~~act~~ title, the Trust, prior to acceptance, shall submit to the Contingency Review Board for review any proposed contractual agreement regarding the lease and operations of the University Hospitals to any entity authorized to transact business in the state and an independent statement as to the fairness of said contractual agreement for the State of Oklahoma. The Contingency Review Board shall upon receipt of the proposed agreement meet within fifteen (15) business days to review the proposed agreement; and unless the Contingency Review

Board disapproves the proposed agreement, the agreement may be executed.

SECTION 7. AMENDATORY Section 5, Chapter 263, O.S.L. 1995 (63 O.S. Supp. 1995, Section 3226), is amended to read as follows:

Section 3226. A. Contingent upon the creation of the University Hospitals Trust as provided in Section 3 of this act, the University Hospitals Authority is hereby authorized to lease, for a term of not more than fifty (50) years, renewable at the option of the Authority, all real property known as the University Hospitals and any other sites under the control of the Authority to the University Hospitals Trust. Any lease agreement made pursuant to this section shall be contingent upon:

1. Prior review by the Attorney General of any contractual agreement between the University Hospitals Trust and any entity authorized to transact business in the State of Oklahoma regarding the lease and operations of the University Hospitals. The Attorney General shall disapprove the agreement if it is determined that provisions of the agreement are not consistent with state law; and

2. The execution of an operating and lease agreement between the University Hospitals Trust and any entity authorized to transact business in the State of Oklahoma.

B. Concurrent with the execution of a lease of real property from the University Hospitals Authority to the University Hospitals Trust as provided in subsection A of this section, the Authority is authorized to transfer title to and possession of all tangible and intangible personal property under its control to the Trust. In any contractual agreement regarding the lease and operations of the University Hospitals between the University Hospitals Trust and any entity authorized to transact business in the State of Oklahoma, the Trust is authorized to sell or otherwise convey to such entity all tangible and intangible personal property the Trust may receive from the University Hospitals Authority. Any contract or other agreement which purports to exercise the powers authorized by this subsection is subject to review by the Contingency Review Board, as specified in Section 3225 of this title.

C. If a contracting entity fails to take possession of the leased premises or abandons or surrenders possession of the leased premises at any time during the term of the lease between the University Hospitals Trust and the contracting entity, the interest in the real property leased to the University Hospitals Trust by the University Hospitals Authority shall revert to and be the sole and exclusive property of the University Hospitals Authority.

D. Contingent upon the execution of an agreement between the University Hospitals Trust and any entity authorized to transact business in the State of Oklahoma, as specified in subsection A of this section, the University Hospitals Authority is authorized to enter into an agreement for such entity to provide indigent care services and perform other related duties imposed upon the University Hospitals Authority by law. Such an agreement between the University Hospitals Authority and such entity is exempt from the requirements of the Oklahoma Central Purchasing Act and any rules adopted by the University Hospitals Authority pursuant to the Administrative Procedures Act.

SECTION 8. AMENDATORY 74 O.S. 1991, Section 840.8, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 22 of Enrolled House Bill 2428 of the 2nd Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 840-5.5 A. The following offices, positions, and personnel shall be in the unclassified service and shall not be placed under the classified service:

1. Persons chosen by popular vote or appointment to fill an elective office, and their employees, except the employees of the Corporation Commission, the State Department of Education and the Department of Labor;

2. Members of boards and commissions, and heads of agencies; also one principal assistant or deputy and one executive secretary for each state agency;

3. All judges, elected or appointed, and their employees;

4. Persons employed with one-time, limited duration, federal or other grant funding that is not continuing or indefinitely renewable. The length of the unclassified employment shall not exceed the period of time for which that specific federal funding is provided. Provided any person unclassified pursuant to this paragraph on the effective date of this act in a capacity that does not meet the criteria listed in this paragraph may continue to be employed in such status until July 1, 1995;

5. All officers and employees of The Oklahoma State System of Higher Education, State Board of Education and State Department of Vocational and Technical Education;

6. Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the Legislature or a committee thereof or by authority of the Governor. These appointments and authorizations shall terminate on the first day of the regular legislative session immediately following the appointment, if not terminated earlier. However, nothing in this paragraph shall prevent the reauthorization and reappointment of any such person;

7. Election officials and employees;

8. Temporary employees employed to work less than one thousand (1,000) hours in any twelve-month period. This category of employees may include persons employed on an intermittent, provisional, seasonal, temporary or emergency basis;

9. Temporary lake patrol officers, regardless of the number of hours worked, who are employed by the Department of Public Safety during the period March 16 through October 31 in any calendar year; provided, the hours worked shall be considered in determining the temporary employee's eligibility for subsequent employment in any other unclassified temporary employment category;

10. Professional trainees only during the prescribed length of their course of training or extension study;

11. Students who are employed on a part-time basis, which shall be seventy-five percent (75%) of a normal forty-hour work week or thirty (30) hours per week, or less, or on a full-time basis if the employment is pursuant to a cooperative education program such as that provided for under Title I IV-D of the Higher Education Act of 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly enrolled in:

- a. an institution of higher learning within The Oklahoma State System of Higher Education,
- b. an institution of higher learning qualified to become coordinated with said State System of Higher Education. For purposes of this act a student shall be considered a regularly enrolled student if he or she is enrolled in a minimum of five (5) hours of accredited graduate courses or a minimum of ten (10) hours of accredited undergraduate courses, provided, however, the student shall only be required to be

enrolled in a minimum of six (6) hours of accredited undergraduate courses during the summer, and such student is regularly attending classes during that semester of employment, or

- c. high school students regularly enrolled in a high school in Oklahoma and regularly attending classes during such time of enrollment;

12. The spouses of personnel who are employed on a part-time basis to assist or work as a relief for their spouses in the Oklahoma Tourism and Recreation Department;

13. Service substitute attendants who are needed to replace museum and site attendants who are unavoidably absent. Service substitutes may work as part-time or full-time relief for absentees for a period of not more than four (4) weeks per year in the Oklahoma Historical Society sites and museums; such substitutes will not count towards the agency's Full-Time-Equivalent Employee Limit;

14. Employees of either the House of Representatives or the State Senate or the Legislative Service Bureau;

15. Corporation Commission personnel occupying the following offices and positions:

- a. Administrative aides, and executive secretaries to the Commissioners,
- b. Directors of all the divisions, personnel managers and comptrollers,
- c. General Counsel,
- d. Public Utility Division Chief Engineer,
- e. Public Utility Division Chief Accountant,
- f. Public Utility Division Chief Economist,
- g. Public Utility Division Deputy Director, and
- h. Secretary of the Commission;

16. At the option of the employing agency, the Supervisor, Director, or Educational Coordinator in any other state agency having a primary responsibility to coordinate educational programs operated for children in state institutions;

17. Bill Willis Community Mental Health Center personnel occupying the following offices and positions:

- a. Director of Facility,
- b. Deputy Director for Administration,
- c. Clinical Services Director,
- d. Executive Secretary to Director, and
- e. Directors or Heads of Departments or Services;

18. Office of State Finance personnel occupying the following offices and positions:

- a. State Comptroller,
- b. Information Services Divisions Manager,
- c. Network Manager, and
- d. Network Technician;

19. Employees of the Oklahoma Development Finance Authority;

20. Those positions so specified in the annual business plan of the Department of Commerce;

21. Those positions so specified in the annual business plan of the Oklahoma Center for the Advancement of Science and Technology;

22. The following positions and employees of the Oklahoma School of Science and Mathematics:

- a. positions for which the annual salary is Twenty-four Thousand One Hundred Ninety-three Dollars (\$24,193.00) or more, as determined by the Office of Personnel Management, provided no position shall become unclassified because of any change in salary or grade while it is occupied by a classified employee,

- b. positions requiring certification by the State Department of Education, and
 - c. positions and employees authorized to be in the unclassified service of the state elsewhere in this section or in subsection B of this section;
23. The Carl Albert Internship Program Coordinator within the Office of Personnel Management;
24. Department of Labor personnel occupying the following offices and positions:
- a. Deputy Commissioner,
 - b. Executive Secretary to the Commissioner,
 - c. Chief of Staff, and
 - d. Administrative Assistant, Legal;
25. The State Bond Advisor and his employees;
26. The Oklahoma Employment Security Commission employees occupying the following positions:
- a. Associate Director,
 - b. Secretary to the Associate Director, and
 - c. Assistant to the Executive Director;
27. Oklahoma Human Rights Commission personnel occupying the position of Administrative Assistant;
28. The officers and employees of the State Banking Department;
29. Officers and employees of the University Hospitals Authority except personnel in the state classified service pursuant to Section 3211 of Title 63 of the Oklahoma Statutes and members of the University Hospitals Authority Model Personnel System created pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma Statutes or as otherwise provided for in Section 4 of this act;
30. Alcoholic Beverage Laws Enforcement Commission employees occupying the three Administrative Service Assistant positions;
31. The Oklahoma State Bureau of Investigation employee occupying the Special Investigator position and one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection;
32. The Governor's Representative of the Oklahoma Highway Safety Office of the Oklahoma Department of Public Safety who shall be appointed by the Governor;
33. Oklahoma Department of Transportation employee occupying the position of the Director of the Oklahoma Aeronautics Commission;
34. One Director and one Assistant Director of the Investments Division of the Commissioners of the Land Office;
35. Within the Bureau of Narcotics and Dangerous Drugs Control Commission, the following positions:
- a. two Narcotics Agent positions, provided, authorization for such positions shall be terminated when federal support for the positions by the Gang Intelligence/Enforcement Program is discontinued, and
 - b. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection;
36. A maximum of one hundred (100) positions, within full-time-employee limitations of the Oklahoma Military Department, to work in any of the Department of Defense directed youth programs or the State of Oklahoma Juvenile Justice Youth Programs. The authorization for such positions shall be terminated if the federal funding for the positions is discontinued;
37. Within the Commission on Children and Youth the following unclassified positions:
- a. one Juvenile Justice Planner and one Oversight Specialist, provided authorization for the positions shall be terminated when federal support for the

positions by the United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention Program is discontinued,

- b. one State Plan Grant Coordinator, provided authorization for the position shall be terminated when federal support for the position by the United States Department of Education Early Intervention Program is discontinued, and
- c. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection;

38. The following positions and employees of the Department of Central Services:

- a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection,
- b. the Director of Central Purchasing, and
- c. one Alternate Fuels Administrator; and

39. One Environmental Specialist I within the Water Resources Board.

B. If an agency has the authority to employ personnel in the following offices and positions, the appointing authority shall have the discretion to appoint personnel to the unclassified service:

- 1. Licensed medical doctors, osteopathic physicians, dentists, and psychologists;
- 2. Certified public accountants;
- 3. Licensed attorneys; and
- 4. Licensed veterinarians.

C. Effective July 1, 1996, authorization for unclassified offices, positions, or personnel contained in a bill or joint resolution shall terminate June 30 of the ensuing fiscal year after the authorization unless the authorization is codified in the Oklahoma Statutes or the termination is otherwise provided in the legislation.

SECTION 9. NONCODIFICATION The provisions of Section 2 of this act shall not be codified in the Oklahoma Statutes.

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 House of Representatives the 30th day of May, 1996.

Speaker of the House of
Representatives

Passed the Senate the 31st day of May, 1996.

President of the Senate