

SHORT TITLE: Poor persons and public health and safety; providing for review of certain decisions involving Medicaid Program eligibility and confidentiality of Medicaid applications; codification; emergency.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 372

By: Monson

AS INTRODUCED

An Act relating to poor persons and public health and safety; amending 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), which relates to procedures for appeal by an applicant; 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; providing for confidentiality of certain applications and records; 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~~†~~ 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 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~~ 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. 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. 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 3. 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.

45-1-0427

CJ