

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 851

By: Robinson of the Senate

and

Mitchell of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to health care systems; amending Section 3, Chapter 336, O.S.L. 1993, as last amended by Section 4, Chapter 348, O.S.L. 1999 (56 O.S. Supp. 1999, Section 1010.3), which relates to the Oklahoma Medicaid Healthcare Options System; prohibiting finalization of certain rates prior to certain occurrence; establishing schedule for awarding certain contracts; requiring submission of certain requests for proposal; amending date for developing managed care plans; specifying populations to be enrolled in managed care plans; providing option for not enrolling certain participants in managed care plans; specifying conditions; allowing participants to initiate certain requests; providing for appeals; requiring certain report; specifying content of such report; requiring contracting with certain entities; amending Section 7, Chapter 336, O.S.L. 1993, as amended by Section 1, Chapter 116, O.S.L. 1997 (56 O.S. Supp. 1999, Section 1010.7), which relates to the Joint Legislative Oversight Committee for the Oklahoma Health Care Authority; deleting end date for certain committee; modifying composition of committee; providing for cochairs; specifying terms of service; requiring prior submission of certain policy changes and rules; providing definition of estate; allowing for transfer of certain deed to the Oklahoma Health Care Authority; allowing promulgation of certain rule; providing for deposit into certain fund; requiring notice of death within a certain penalty; specifying treatment of claims; amending 56 O.S. 1991, Section 200b as amended and renumbered by Sections 3 & 6, Chapter 221, O.S.L. 1996 (63 O.S. Supp. 1999, Section 5051.3), which relates to homestead liens, specifying conditions for executing certain liens; providing for codification; amending Section 3, Chapter 342, O.S.L. 1995 (74 O.S. Supp. 1999, Section 62.3), which relates to the disposal of surplus property; creating an exception; providing for codification; and providing an effective date.

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 4, Chapter 348, O.S.L. 1999 (56 O.S. Supp. 1999, Section 1010.3), is amended to read as follows:

Section 1010.3 A. 1. There is hereby established the Oklahoma Medicaid Healthcare Options System. 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.

3. The contracts for the managed care health plans shall be awarded on a competitive bid basis.

4. The Authority shall not finalize capitation rates with managed care health plans for fiscal year 2002 until after the 1st Regular Session of the 48th Oklahoma Legislature adjourns sine die.

5. Contracts for managed care health plans shall be awarded for a period of time as follows:

a. beginning July 1, 2001, for a six-month period ending on the following December 31, and

b. beginning January 1, 2002, and on January 1 each year thereafter for a twelve-month period ending on the following December 31.

6. The Oklahoma Health Care Authority shall provide the President Pro Tempore of the Senate and the Speaker of the House of Representatives with copies of any proposed Request for Proposal for contracts with managed health care plans at the time of the release of the Request for Proposal.

7. 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. 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 Temporary Assistance for Needy Families (TANF) program and participants categorized as noninstitutionalized medically needy. On or before July 1, 1997, all participants in the Temporary Assistance for Needy Families (TANF) program and participants categorized as noninstitutionalized medically needy shall be enrolled in a managed care plan;

2. On or before July 1, 1999, managed care plans shall be developed for all participants categorized as aged, blind or disabled;

3. On or before July 1, ~~2001~~ 2005, managed care plans shall be developed for all participants who are institutionalized or receiving home and community-based services under a waiver; and

4. On or before July 1, 2000, a proposal for a Medicaid waiver to implement a managed care pilot program for participants with long-term care needs shall be developed and presented to the Joint Legislative Oversight Committee established in Section 1010.7 of this title. The pilot program shall provide a continuum of services for participants including, but not limited to, case management, supportive assistance in residential settings, homemaker services,

home-delivered meals, adult day care, respite care, skilled nursing care, specialized medical equipment and supplies, and institutionalized long-term care. Payment for these services shall be on a capitated basis. The Joint Legislative Oversight Committee shall review the waiver application for the pilot program on or before December 1, 2000. In no instance shall the waiver application be presented to the Health Care Financing Administration prior to the review by the Committee.

5. The Oklahoma Health Care Authority may choose not to enroll or continue a participant in a managed care plan for any good cause, including, but not limited to, when the following conditions apply:

- a. the participant has a chronic medical condition,
- b. the participant has an established relationship with a medical provider for care of this chronic condition,
- c. the medical provider does not have a contract with any managed care organization participating in the SoonerCare program, and
- d. the medical provider submits a written opinion to the Oklahoma Health Care Authority asserting that a discontinuation of the existing patient-provider relationship may have an adverse effect on the participant's health.

Alternatively, such participant may be enrolled in a managed care plan but continue to receive services from the established provider. In that case payments will be made on a fee-for-service basis and subtracted from the capitation payment made to the managed care plan.

6. Any participant may initiate the request not to be enrolled or continued in a managed care plan under the provisions of this section and may appeal any adverse decision as provided for under the hearing process set out in Section 5052 of Title 63 of the Oklahoma Statutes.

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.

F. On or before February 1 of each year, the Oklahoma Health Care Authority shall prepare and submit to the President Pro Tempore of the Senate and the Speaker of the House of Representatives a written report evaluating the quality of health care services for recipients enrolled in the Medicaid Healthcare Options System.

1. This evaluation report shall include, but not be limited to, data and analysis on the following subjects related to the Oklahoma Medicaid Healthcare Options System:

- a. recipient access to and utilization of primary care services,
- b. recipient access to and utilization of specialist medical services,
- c. recipient access to and utilization of preventive health services,
- d. recipient access to and utilization of acute care treatment and emergency room services,
- e. recipient access to and utilization of behavioral health services,
- f. recipient access to and utilization of dental services,

- g. management of chronic care conditions,
- h. consumer satisfaction with access to and quality of care, and
- i. the impact of the system on patient health and well-being.

2. The evaluation report shall include specific consideration of the above subjects in relation to participants categorized as Aged, Blind and Disabled who are enrolled in the Oklahoma Medicaid Healthcare Options Systems.

3. The Oklahoma Health Care Authority shall contract with a qualified outside entity for preparation and writing of this evaluation report.

SECTION 2. AMENDATORY Section 7, Chapter 336, O.S.L. 1993, as amended by Section 1, Chapter 116, O.S.L. 1997 (56 O.S. Supp. 1999, Section 1010.7) is amended to read as follows:

A. There is hereby established ~~to continue until September 30, 1999,~~ the Joint Legislative Oversight Committee for the Oklahoma Health Care Authority.

B. The Committee shall be composed of ~~three~~ five members of the Oklahoma State Senate, to be appointed by the President Pro Tempore of the Senate, and ~~three~~ five members of the Oklahoma House of Representatives, to be appointed by the Speaker of the House of Representatives. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate one member to serve as cochair of the Committee. Members and cochairs shall serve terms of two (2) years and shall be removable for cause by at the pleasure of the appointing authority. Vacancies on the Committee shall be filled by the appointing authority.

C. The Committee may use the expertise and services of the staffs of the State Senate and the House of Representatives and may, as necessary, employ and contract for the advice and services of

experts in the fields as well as other necessary professional and clerical staff.

D. The Committee shall be convened no less than four times a year and shall meet at least once each year with the members of the Oklahoma Health Care Authority Board.

E. The Committee, in conjunction with the Oklahoma Health Care Authority, as specified in Section 1010.3 of this title shall review negotiations with the federal government relating to any and all agreements between the federal government and the State of Oklahoma concerning Title XIX programs in this state, pursuant to Title XIX of the Social Security Act, 42 U.S.C. Section 1396 et seq. and Title XXI of the Social Security Act.

F. The Committee shall review and make recommendations concerning all proposals for additions or modifications to populations covered or services provided by the Oklahoma Health Care Authority, as specified in Section 1010.3 of this title. The Committee shall also monitor the implementation of these additions or modifications, including review of the preadmission screening instrument, the eligibility and enrollment system and the services delivery system.

G. The Committee, in conjunction with the Oklahoma Health Care Authority, as specified in Section 1010.3 of this title, shall conduct a study of client advocacy and community outreach. The Committee shall submit a report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives no later than January 1 of each year, until 1999.

H. The Oklahoma Health Care Authority shall provide members of the Committee with policy changes and rules proposed by the Authority at the same time as such rules and policies are submitted to the Advisory Committee on Medical Care for Public Assistance Recipients in accordance with subsection B of Section 5009.2.B of Title 63 of the Oklahoma Statutes.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5051.2a of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Estate, for the purpose of this act, shall include any real or personal property and any intangible or other assets in which a deceased person had any legal title or interest at the time of death. This includes assets conveyed to a survivor, heir or assignee of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, the balance of pre-paid burial trust funds after burial expenses have been paid and monies remaining in personal accounts and personal needs accounts established and held by nursing homes.

B. Any recipient in a nursing home or other facility may at any time transfer title by quitclaim deed to any real property owned by the recipient to the Oklahoma Health Care Authority. In instances where the Authority receives title to property, the Authority has the power to promulgate rules for the disposition of the property. Such disposition shall not be subject to the provisions of the Oklahoma Surplus Property Act. Any and all funds from the disposal of the property will be deposited in the Oklahoma Health Care Authority Revolving Fund as created by Section 5016 of Title 63 and disbursed according to state and federal law.

C. Within ninety (90) days of the date of death of a person who was a recipient who received or may have received benefits, or was the surviving or predeceased spouse of a person who received or may have received medical assistance, the attorney for the estate, or if there is no attorney, the beneficiary, the personal representative, public administrator or the person in possession of property of the decedent, must give notice to the Authority of the decedent's death. The notice shall include a copy of the decedent's death certificate.

D. The Authority's claim shall be considered an expense of the

last illness of the decedent for the purpose of Section 591 of Title 58 of the Oklahoma Statutes. Any statute of limitations that purports to limit the Authority's ability to recover any medical assistance granted hereunder shall not apply to any claim made hereunder for reimbursement for any medical assistance granted. Notice of the claim shall be given to all heirs and devisees of the decedent whose identity can be ascertained with reasonable diligence.

SECTION 4. AMENDATORY 56 O.S. 1991, Section 200b as amended and renumbered by Sections 3 and 6, Chapter 221, O.S.L. 1996 (63 O.S. Supp. 1999, Section 5051.3) is amended to read as follows:

A. Pursuant to the provisions of this section, the Oklahoma Health Care Authority is authorized to file and enforce a lien against the homestead of a recipient for payments of medical assistance made by the Authority to the recipient who is an inpatient of a nursing home if the Authority, upon competent medical testimony, determines the recipient cannot reasonably be expected to be discharged and returned home. A one-year period of compensated inpatient care at a nursing home or nursing homes shall constitute a determination by the Authority that the recipient cannot reasonably be expected to be discharged and returned home.

B. Upon certification for Title XIX of the federal Social Security Act payments for nursing home care, the Authority shall provide written notice to the recipient that:

1. A one-year period of compensated inpatient care at a nursing home or nursing homes shall constitute a determination by the Authority that the recipient cannot reasonably be expected to be discharged and returned home;

2. A lien will be filed against the homestead of the recipient pursuant to the provisions of this section and that the amount of the lien shall be for the amount of assistance paid by the Authority after the expiration of one (1) year from the date the recipient

became eligible for compensated inpatient care at a nursing home or nursing homes until the time of the filing of the lien and for any amount paid thereafter for such medical assistance to the recipient; and

3. The recipient is entitled to a hearing with the Authority prior to the filing of the lien pursuant to this section.

The notice shall also contain an explanation of the lien and the effect the lien will have on the ownership of the homestead of the recipient and any other person residing in the homestead. The notice shall be signed by the recipient or the legal guardian of the recipient acknowledging that the recipient or the legal guardian of the recipient understands the notice and the effect that the payment of medical assistance on the recipient's behalf will have upon the homestead of the recipient.

C. The lien filed pursuant to subsection E of this section shall be for the amount of assistance paid beginning one (1) year after the recipient has received inpatient care from a nursing home or nursing homes and has received payment of medical assistance by the Authority until the time of the filing of the lien and for any amount paid thereafter for the medical assistance to the recipient.

D. ~~The Authority shall not file a lien~~ No lien may be executed on the homestead of the recipient pursuant to subsection E of this section while the homestead is the lawful residence of:

1. The surviving spouse of the recipient;
2. A child related to the recipient by blood or marriage who is twenty (20) years of age or less;
3. An adult child related to the recipient by blood or marriage who is incapacitated as defined by the Authority; or
4. A brother or sister of the recipient who has an equity interest in the home and who was residing in the home for at least one (1) year immediately preceding the date the recipient was

admitted to the nursing home and has resided there on a continuous basis since that time.

E. No lien for payment of medical assistance pursuant to this section shall be effective unless:

1. The Authority has provided notice to the recipient of the intent to file a lien against the homestead of the recipient and of the opportunity for a hearing on the matter; and

2. After the notice specified in paragraph 1 of this subsection has been given, a lien is filed for record against the legal description of the homestead in the office of the county clerk of the county in which the homestead of the recipient is located. The lien shall contain the following information:

- a. the name and address of the place of residence of the recipient,
- b. the amount of the assistance paid at the time of the filing of the lien and the amount which is expected to accumulate on a monthly basis,
- c. the date the recipient began receiving compensated inpatient care at a nursing home or nursing homes,
- d. the legal description of the real property against which the lien will be recorded, and
- e. such other information as the Authority requires.

F. 1. After the lien has been filed pursuant to subsection E of this section, the Authority may enforce a lien only:

- a. after the death of the surviving spouse of the recipient~~†~~
- b. when there is no child related to the recipient by blood or marriage who is twenty (20) years of age or less residing in the homestead~~†~~
- c. when there is no adult child related to the recipient by blood or marriage who is incapacitated as defined by the Authority residing in the homestead~~†~~ and

- d. when no brother or sister of the recipient is residing in the homestead, who has resided there for at least one (1) year immediately before the date of the recipient's admission to the facility or institution, and has resided there on a continuous basis since that time.

2. A lien filed pursuant to subsection E of this section shall remain on the homestead:

- a. until the lien is satisfied,
- b. until the value of the homestead is consumed by the lien, at which time the Authority may force the sale of the homestead to satisfy the lien, or
- c. after transfer of title of the real property by conveyance, sale, succession, inheritance, or will.

3. The lien filed pursuant to subsection E of this section may be enforceable by the Authority before or after the death of the recipient.

4. The lien created by this section shall be treated as a mortgage and shall be released in accordance with the provisions as set forth in Section 15 of Title 46 of the Oklahoma Statutes.

5. The lien shall not sever a joint tenancy nor affect the right of survivorship. The lien shall be enforceable only to the extent of the ownership of the person receiving assistance as it existed at the time the recipient began receiving assistance.

G. The recipient, the heirs, personal representative, or assigns of the recipient may discharge said lien at any time by paying the amount of the lien to the Authority.

H. At the end of the one (1) year limitation, the Authority shall exclude from consideration as a resource the value of the homestead of the recipient.

I. The payment of medical assistance on behalf of the recipient by the Authority and the signing of the notice pursuant to

subsection B of this section shall constitute a waiver of the homestead rights of the recipient for the purposes of this section and Section 3 of Article XII of the Oklahoma Constitution.

J. 1. Pursuant to the provisions of this subsection, if the homestead is sold to enforce the lien authorized pursuant to the provisions of this section, an amount up to Six Thousand Dollars (\$6,000.00) from the proceeds of the sale of the homestead, less the value of any prepaid burial or insurance policies or designated accounts for funeral expenses already owned by the recipient, shall be set aside in an irrevocable trust fund to be used for the funeral expenses of the recipient.

2. Payment of the funeral expenses from the proceeds of the sale of the homestead shall be made as follows:

- a. If the proceeds exceed the amount of the lien, the payment of funeral expenses shall be first satisfied from any amount in excess of the lien amount. After the excess is exhausted, the remainder of funeral expenses shall be satisfied from the lien amount prior to payment of any reimbursement to the Authority.
- b. If the proceeds from the sale of the homestead do not exceed the amount of the lien, the payment of funeral expenses shall be satisfied from the lien amount prior to payment of any reimbursement to the Authority.

K. As used in this section:

"Nursing home" means any home, establishment, or institution which offers or provides on a regular basis twenty-four-hour medical services, skilled nursing care, necessary special dietary service, and personal care and supervision to three or more of its residents who are not related to the owner or administrator of the facility.

L. If any provision of this section shall be in conflict with any applicable federal statutes and regulations, the federal statutes and regulations shall prevail and be controlling until such

time as the federal statutes and regulations shall be revised to conform to this section.

SECTION 5. AMENDATORY Section 3, Chapter 342, O.S.L. 1995 (74 O.S. Supp. 1999, Section 62.3) is amended to read as follows:

A. The Director shall:

1. Establish written surplus property acquisition and disposal rules for use by all state agencies;

2. Develop minimum standards for proper recordkeeping of surplus property acquisition and disposal for use by all state agencies; and

3. Make recommendations to state agencies on surplus property management programs.

B. ~~Any~~ Except as provided in Section 3 of this act, state agency selling, trading, redistributing or otherwise disposing of surplus property shall comply with the rules promulgated by the Department of Central Services.

SECTION 6. This act shall become effective September 1, 2000.

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