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THE STATE SENATE
Tuesday, October 2, 2001

Senate Bill No. 11X

1st Extraordinary Session
of the 48th Legislature

SENATE BILL NO. 11X - By: WILLIAMS.

An Act relating to public health and safety; amending Section 1, Chapter 340, O.S.L. 2000, which relates to the Oklahoma 2001 Healthcare Initiative; modifying eligibility for certain reimbursement; making certain reimbursement contingent on certain conditions; amending Section 2, Chapter 340, O.S.L. 2000, as amended by Section 31, Chapter 418, O.S.L. 2000 (56 O.S. Supp. 2000, Section 2002), which relates to the Nursing Facilities Quality of Care Fee; clarifying calculation of rate; modifying authorized purposes for expenditure of certain funds; making certain expenditure contingent on certain conditions; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 1, Chapter 340, O.S.L. 2000, is amended to read as follows:

Section 1. A. This act shall be known and may be cited as the "Oklahoma 2001 Healthcare Initiative".

B. 1. The purpose of the Oklahoma 2001 Healthcare Initiative is to improve the public health care system of Oklahoma through increased health care services and benefits.

2. In order to upgrade Oklahoma's health care system, the Oklahoma Legislature through the Oklahoma 2001 Healthcare Initiative

1 hereby provides funding for the most critical needs of the
2 vulnerable citizens and residents of this state.

3 C. To this end, the Oklahoma Legislature hereby requires:

4 1. The Oklahoma Health Care Authority to:

5 a. increase by eighteen percent (18%), provided the
6 increase does not exceed federal limits, the Medicaid
7 reimbursement rate to the following persons or
8 entities providing Medicaid-authorized services to
9 eligible persons:

10 (1) physicians including, but not limited to,

11 psychiatrists and osteopathic physicians,

12 (2) home health care providers,

13 (3) laboratory and clinic services providers,

14 (4) ambulatory clinic providers, and

15 (5) other Medicaid-authorized medical services
16 providers including, but not limited to:

17 chiropractors, optometrists, opticians,

18 psychologists, speech pathologists, and

19 occupational therapists,

20 b. increase by ten percent (10%) the Medicaid

21 reimbursement rate to persons providing Medicaid

22 behavioral health counseling services to eligible

23 persons,

- 1 c. increase the hospital inpatient day limit for Medicaid
2 services from twelve (12) days to twenty-four (24)
3 days per year,
- 4 d. increase the Medicaid reimbursement rate to the Sooner
5 Care Plus Program for:
- 6 (1) maternity level of care services
7 increase by \$271.00 per delivery
- 8 (2) emergency room services
9 increase emergency room visit rate
10 increase nonemergency room visit rate
- 11 (3) ambulatory surgical services 10% increase
12 (4) inpatient hospital services 12% increase
13 (5) neonatal inpatient hospital
14 services 20% increase
- 15 e. increase the Medicaid reimbursement rate to hospitals
16 in the Fee-For-Service Program for:
- 17 (1) maternity level of care services,
18 Mother increase by \$55.50 per day
19 Child increase by \$55.50 per day
- 20 (2) emergency room services
21 increase emergency room visit rate
22 increase nonemergency room visit rate
- 23 (3) ambulatory surgical services 10% increase

- 1 (4) inpatient hospital services 12% increase
2 (5) neonatal inpatient hospital
3 services 20% increase
4 (6) critical access hospital
5 services 38% increase
6 f. increase the Medicaid reimbursement rate sixty percent
7 (60%) for dental services provided to eligible
8 persons, ~~and~~
9 g. increase the Medicaid reimbursement rate forty percent
10 (40%) for ambulance services provided to eligible
11 persons, and
12 h. subject to the provisions of subsection D of this
13 section, reimburse licensed nursing facilities that
14 are not Medicaid certified for purposes specified by
15 subsection B of Section 1-1925.2 of Title 63 of the
16 Oklahoma Statutes;

17 2. The State Department of Health, with the cooperation of the
18 Oklahoma Health Care Authority and the Department of Human Services
19 to:

- 20 a. develop and implement a comprehensive, evidence-based
21 tobacco prevention and cessation program from state-
22 appropriated funds, available Medicaid funds,
23 available grant funds, and available Temporary

1 Assistance for Needy Families block grant monies. The
2 program shall:

3 (1) consist of the following four cornerstones:

4 (a) community-based initiatives,

5 (b) voluntary classroom programs in public
6 schools,

7 (c) cessation assistance, and

8 (d) public education media programs, and

9 (2) utilize strategies including, but not limited to,
10 involving school nurses in youth tobacco
11 prevention efforts, and utilizing other efforts
12 that have been demonstrated to be effective by
13 the United States Centers for Disease Control and
14 Prevention in an effort to:

15 (a) lower smoking rates among Oklahoma youths,

16 (b) reduce tobacco consumption by Oklahomans,
17 and

18 (c) reduce exposure related to secondhand
19 tobacco smoke.

20 The program shall comply with the provisions of
21 Section 19 of this act, Chapter 340, O.S.L. 2000,

22 b. expend monies made available from the Legislature and
23 other sources for such programs authorized by this

1 section with a goal of encouraging additional matching
2 direct and indirect funds for tobacco prevention and
3 cessation efforts in Oklahoma, and
4 c. report by January 1st of each year to the Legislature
5 on the implementation of the comprehensive, evidence-
6 based tobacco prevention and cessation program
7 specified by this section;
8 3. The Department of Human Services to:
9 a. increase Medicaid reimbursement rates to:
10 (1) direct care staff who provide personal care and
11 ADvantage waiver services to Medicaid-eligible
12 adults including, but not limited to, the
13 reimbursement rate for respite care, meal
14 preparation and housekeeping, and
15 (2) habilitation training specialists who serve
16 developmentally disabled persons including, but
17 not limited to, the reimbursement rate for
18 assisting and training in self-care, and daily
19 living and prevocational skills,
20 b. increase contract amount by thirteen percent (13%) for
21 salaries of Older Americans Act nutrition site
22 employees who provide meals and nutrition services
23 including, but not limited to, reimbursement rates for

- 1 home-delivered meals, congregate meals and nutrition
2 education,
- 3 c. purchase services up to Ten Thousand Dollars
4 (\$10,000.00) per child for developmentally disabled
5 children who are on the waiting list to receive
6 services including, but not limited to, habilitation
7 treatment specialist services, medical supplies, home
8 health care, therapy and respite care services,
- 9 d. purchase services up to Fifteen Thousand Dollars
10 (\$15,000.00) per adult for developmentally disabled
11 adults who are on the waiting list to receive services
12 including, but not limited to, habilitation treatment
13 specialist services, medical supplies, home health
14 care, therapy and respite care services, and
- 15 e. purchase ADvantage waiver services for developmentally
16 disabled persons without cognitive impairment.

17 D. The Oklahoma Health Care Authority is directed to, prior to
18 June 30, 2001, prepare and file an amendment to the State Medicaid
19 Plan with the Health Care Financing Administration which will
20 implement the provisions of subparagraph h of paragraph 1 of
21 subsection C of this section. Upon either:

22 1. An approval of such amendment which indicates that the
23 Nursing Facilities Quality of Care Fee will not be disqualified as a

1 source of state Medicaid matching funds for purposes of the State
2 Medicaid Plan; or

3 2. Receipt of a written statement from an appropriate federal
4 official as determined by the Oklahoma Health Care Authority that
5 implementation of the amendment will not cause or result in the
6 disqualification of the Nursing Facilities Quality of Care Fee as a
7 source of state Medicaid matching funds for purposes of the State
8 Medicaid Plan;

9 the Oklahoma Health Care Authority shall make the reimbursements
10 provided for in subparagraph h of paragraph 1 of subsection C of
11 this section. Such payments shall be retroactive to the effective
12 date of this act.

13 SECTION 2. AMENDATORY Section 2, Chapter 340, O.S.L.
14 2000, as amended by Section 31, Chapter 418, O.S.L. 2000 (56 O.S.
15 Supp. 2000, Section 2002), is amended to read as follows:

16 Section 2002. A. For the purpose of providing quality care
17 enhancements, the Oklahoma Health Care Authority is authorized to
18 and shall assess a Nursing Facilities Quality of Care Fee pursuant
19 to this section upon each nursing facility licensed in this state.
20 Quality of care enhancements include, but are not limited to, the
21 purposes specified in this section.

22 B. As a basis for determining the maximum Nursing Facilities
23 Quality of Care Fee assessed upon each licensed nursing facility,

1 the Oklahoma Health Care Authority shall calculate a uniform per-
2 patient day rate. The rate shall be ~~set at~~ calculated by dividing
3 six percent (6%) of the total annual patient gross ~~revenue~~ receipts
4 of all licensed nursing facilities in this state by the total number
5 of patient days for all licensed nursing facilities in this state.
6 The result shall be the per-patient day rate.

7 C. The Nursing Facilities Quality of Care Fee owed by a
8 licensed nursing facility shall be calculated by the Oklahoma Health
9 Care Authority by adding the daily patient census of a licensed
10 nursing facility, as reported by the facility for each day of the
11 month, and by multiplying the ensuing figure by a the uniform per-
12 patient day rate determined pursuant to the provisions of subsection
13 B of this section.

14 D. Each licensed nursing facility which is assessed the Nursing
15 Facilities Quality of Care Fee shall be required to file a report on
16 a monthly basis with the Oklahoma Health Care Authority detailing
17 the daily patient census and patient gross ~~revenues~~ receipts at such
18 time and in such manner as required by the Oklahoma Health Care
19 Authority.

20 E. 1. The Nursing Facilities Quality of Care Fee for a
21 licensed nursing facility for the period beginning October 1, 2000,
22 shall be determined using the daily patient census and annual
23 patient gross revenues figures reported to the Oklahoma Health Care

1 Authority for the calendar year 1999 upon forms supplied by the
2 Authority.

3 2. The Nursing Facilities Quality of Care Fee for the fiscal
4 year beginning July 1, 2001, and each fiscal year thereafter shall
5 be determined by:

- 6 a. using the daily patient census and patient gross
7 ~~revenues~~ receipts reports received by the Authority
8 covering the six-month period October 1 through March
9 31 of the prior fiscal year, and
10 b. annualizing those figures.

11 F. The payment of the Nursing Facilities Quality of Care Fee by
12 licensed nursing facilities shall be an allowable cost for Medicaid
13 reimbursement purposes.

14 G. 1. There is hereby created in the State Treasury a
15 revolving fund to be designated the "Nursing Facility Quality of
16 Care Fund".

17 2. The fund shall be a continuing fund, not subject to fiscal
18 year limitations, and shall consist of:

- 19 a. all monies received by the Authority pursuant to this
20 section and otherwise specified or authorized by law,
21 b. monies received by the Authority due to federal
22 financial participation pursuant to Title XIX of the
23 Social Security Act, and

1 c. interest attributable to investment of money in the
2 fund.

3 3. All monies accruing to the credit of the fund are hereby
4 appropriated and shall be budgeted and expended by the Authority
5 for:

- 6 a. (1) reimbursement of the additional costs paid to
7 Medicaid-certified nursing facilities for
8 purposes specified by Sections 4 1-1925.2, 5
9 5022.1 and ~~6~~ 5022.2 of ~~this act~~ Title 63 of the
10 Oklahoma Statutes and,
11 (2) subject to the provisions of subsection D of
12 Section 1, Chapter 340, O.S.L 2000, as amended by
13 this act, reimbursement of the additional costs
14 paid to other licensed nursing facilities for
15 purposes specified by subsection B of Section 1-
16 1925.2 of Title 63 of the Oklahoma Statutes,
17 b. reimbursement of the Medicaid rate increases for
18 intermediate care facilities for the mentally retarded
19 (ICFs/MR) ,
20 c. nonemergency transportation services for nursing home
21 clients,
22 d. eyeglass and denture services for nursing home
23 clients,

- 1 e. ten additional ombudsmen employed by the Department of
2 Human Services,
- 3 f. ten additional nursing facility inspectors employed by
4 the State Department of Health,
- 5 g. pharmacy and other Medicaid services to qualified
6 Medicare beneficiaries whose incomes are at or below
7 one hundred percent (100%) of the federal poverty
8 level; provided however, pharmacy benefits authorized
9 for such qualified Medicare beneficiaries shall be
10 suspended if the federal government subsequently
11 extends pharmacy benefits to this population,
- 12 h. funds to conduct a study of nursing facility
13 reimbursement methodology,
- 14 i. costs incurred by the Oklahoma Health Care Authority
15 in the administration of the provisions of this
16 section and any programs created pursuant to this
17 section,
- 18 j. durable medical equipment and supplies services for
19 elderly adults, and
- 20 k. personal needs allowance increases for residents of
21 nursing homes and Intermediate Care Facilities for the
22 Mentally Retarded (ICFs/MR) from Thirty Dollars

1 (\$30.00) to Fifty Dollars (\$50.00) per month per
2 resident.

3 4. Expenditures from the fund shall be made upon warrants
4 issued by the State Treasurer against claims filed as prescribed by
5 law with the Director of State Finance for approval and payment.

6 5. The fund and the programs specified in this section are
7 exempt from budgetary cuts, reductions, or eliminations caused by
8 the lack of general revenue funds.

9 6. The Medicaid rate increases for intermediate care facilities
10 for the mentally retarded (ICFs/MR) shall not exceed the net
11 Medicaid rate increase for nursing facilities including, but not
12 limited to, the Medicaid rate increase for which Medicaid-certified
13 nursing facilities are eligible due to the Nursing Facilities
14 Quality of Care Fee less the portion of that increase attributable
15 to treating the Nursing Facilities Quality of Care Fee as an
16 allowable cost.

17 7. The reimbursement rate for nursing facilities shall be made
18 in accordance with Oklahoma's Medicaid reimbursement rate
19 methodology and the provisions of this section.

20 8. No nursing facility shall be guaranteed, expressly or
21 otherwise, that any additional costs reimbursed to the facility will
22 equal or exceed the amount of the Nursing Facilities Quality of Care
23 Fee paid by the nursing facility.

1 H. 1. In the event that federal financial participation
2 pursuant to Title XIX of the Social Security Act is not available to
3 the Oklahoma Medicaid program, for purposes of matching expenditures
4 from the Nursing Facility Quality of Care Fund at the approved
5 federal medical assistance percentage for the applicable fiscal
6 year, the Nursing Facilities Quality of Care Fee shall be null and
7 void as of the date of the nonavailability of such federal funding,
8 through and during any period of nonavailability.

9 2. In the event of an invalidation of this section by any court
10 of last resort under circumstances not covered in subsection I of
11 this section, the Nursing Facilities Quality of Care Fee shall be
12 null and void as of the effective date of that invalidation.

13 3. In the event that the Nursing Facilities Quality of Care Fee
14 is determined to be null and void for any of the reasons enumerated
15 in this subsection, any Nursing Facilities Quality of Care Fee
16 assessed and collected for any periods after such invalidation shall
17 be returned in full within sixty (60) days by the Oklahoma Health
18 Care Authority to the nursing facility from which it was collected.

19 I. 1. If any provision of this section or the application
20 thereof shall be adjudged to be invalid by any court of last resort,
21 such judgment shall not affect, impair or invalidate the provisions
22 of the section, but shall be confined in its operation to the
23 provision thereof directly involved in the controversy in which such

1 judgment was rendered. The applicability of such provision to other
2 persons or circumstances shall not be affected thereby.

3 2. This subsection shall not apply to any judgment that affects
4 the rate of the Nursing Facilities Quality of Care Fee, its
5 applicability to all licensed nursing homes in the state, the usage
6 of the fee for the purposes prescribed in this section, and/or the
7 ability of the Oklahoma Health Care Authority to obtain full federal
8 participation to match its expenditures of the proceeds of the fee.

9 J. The Oklahoma Health Care Authority shall promulgate rules
10 for the implementation and enforcement of the Nursing Facilities
11 Quality of Care Fee established by this section.

12 K. The Authority may assess administrative penalties, and shall
13 promulgate rules which provide for the assessment of administrative
14 penalties, upon nursing facilities which fail to submit the fee
15 required by this section in a timely manner.

16 L. As used in this section:

17 1. "Nursing facility" means any home, establishment or
18 institution, or any portion thereof, licensed by the State
19 Department of Health as defined in Section 1-1902 of Title 63 of the
20 Oklahoma Statutes;

21 2. "Medicaid" means the medical assistance program established
22 in Title XIX of the federal Social Security Act and administered in
23 this state by the Oklahoma Health Care Authority;

1 3. "Patient gross revenues" means gross revenues received in
2 compensation for services provided to residents of nursing
3 facilities including, but not limited to, client participation. The
4 term "patient gross revenues" shall not include amounts received by
5 nursing facilities as charitable contributions; and

6 4. "Additional costs paid to Medicaid-certified nursing
7 facilities under Oklahoma's Medicaid reimbursement methodology"
8 means both state and federal Medicaid expenditures including, but
9 not limited to, funds in excess of the aggregate amounts that would
10 otherwise have been paid to Medicaid-certified nursing facilities
11 under the Medicaid reimbursement methodology which have been updated
12 for inflationary, economic, and regulatory trends and which are in
13 effect immediately prior to the inception of the Nursing Facilities
14 Quality of Care Fee.

15 SECTION 3. It being immediately necessary for the preservation
16 of the public peace, health and safety, an emergency is hereby
17 declared to exist, by reason whereof this act shall take effect and
18 be in full force from and after its passage and approval.

19 DIRECT TO CALENDAR.