STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 1670 By: Dunlap

AS INTRODUCED

An Act relating to public health and safety; amending 63 O.S. 2001, Sections 5003, 5004, 5005, 5006, 5007, 5008, 5009, 5009.1, 5009.2, 5009.4, 5010, 5011, 5011.1, 5012, 5013, 5013.1, 5014, 5015, 5015.1 and 5016, which relate to the Oklahoma Health Care Authority; amending 56 O.S. 2001, Sections 1002, 1003, 1004, 1005, 1007, 1010.1, 1010.2, 1010.3, 1010.4, 1010.7A and 1010.8, which relate to the Oklahoma Medicaid Program Integrity Act and the Oklahoma Medicaid Healthcare Options Act; making the Oklahoma Health Care Authority a division within the Department of Human Services; abolishing the Oklahoma Health Care Authority and the Oklahoma Health Care Authority Board; transferring powers, duties, responsibilities, all personnel and property to the Department of Human Services; requiring all personnel classifications become classified; continuing all rules and policies in effect until amended or repealed by the Commission for Human Services; providing all unexpired contracts remain valid with exceptions; directing the Director of State Finance to coordinate the transfer of property; coordinating the transfer of personnel with the Office of Personnel Management; deeming references to the Oklahoma Health Care Authority and the Oklahoma Health Care Authority Board be to the Oklahoma Health Care Division within the Department of Human Services and the Commission for Human Services; creating the Oklahoma Health Care Act and citing short title; modifying definitions; amending statutory language to conform to transfer; clarifying language; deleting unnecessary and obsolete language; modifying duties of Joint Legislative Oversight Committee; repealing 56 O.S. 2001, Sections 1010.6 and 1010.10, which relate to creation of statewide task force to develop statewide eligibility system for persons applying for certain services and Task Force on Medicaid Managed Care Services for People with Developmental Disabilities; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 2001, Section 5003, is amended to read as follows:

Section 5003. A. The Legislature recognizes that the state is a major purchaser of health care services, and the increasing costs of such health care services are posing and will continue to pose a great financial burden on the state. It is the policy of the state to provide comprehensive health care as an employer to state employees and officials and their dependents and to those who are dependent on the state for necessary medical care. It is imperative that the state develop effective and efficient health care delivery systems and strategies for procuring health care services in order for the state to continue to purchase the most comprehensive health care possible.

B. It is therefore incumbent upon the Legislature to establish the Oklahoma Health Care ~~Authority~~ Division within the Department of Human Services whose purpose shall be to:

1. Purchase state and education employees' health care benefits and Medicaid benefits;

2. Study all state-purchased and state-subsidized health care, alternative health care delivery systems and strategies for the procurement of health care services in order to maximize cost containment in these programs while ensuring access to quality health care; and

3. Make recommendations aimed at minimizing the financial burden which health care poses for the state, its employees and its charges, while at the same time allowing the state to provide the most comprehensive health care possible.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5003.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Health Care Authority and Oklahoma Health Care Authority Board are hereby abolished. Effective July 1, 2002, the

powers, duties, and responsibilities exercised by the Authority and Board shall be transferred to the Department of Human Services and the Commission for Human Services, pursuant to the provisions of this act. All unexpended funds, property, records, personnel, and outstanding financial obligations and encumbrances of the Authority are hereby transferred to the Department of Human Services. All transferred personnel shall retain their employment position; provided, however, all positions shall become classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act.

B. All rules promulgated by the Oklahoma Health Care Authority Board, and all policies established by such Board, shall continue in effect until amended or repealed by the Commission for Human Services. All unexpired contracts entered into by the Authority shall remain valid for stated terms and conditions until otherwise terminated by the Commission pursuant to the terms and conditions of the contract, or by breach of contract or as otherwise provided by law.

C. The Director of State Finance is hereby directed to coordinate the transfer of funds, allotments, purchase orders, and outstanding financial obligations or encumbrances, provided for in subsection A of this section. The transfer of personnel shall be coordinated with the Office of Personnel Management.

D. Any reference in the statutes to the Oklahoma Health Care Authority and the Oklahoma Health Care Authority Board shall be deemed references to the Oklahoma Health Care Division within the Department of Human Services and the Commission for Human Services, respectively.

SECTION 3. AMENDATORY 63 O.S. 2001, Section 5004, is amended to read as follows:

Section 5004. ~~Sections 1 through 14~~ Section 1 of this act and Section 5003 et seq. of this title shall be known and may be cited as the "Oklahoma Health Care ~~Authority~~ Act".

SECTION 4. AMENDATORY 63 O.S. 2001, Section 5005, is amended to read as follows:

Section 5005. For purposes of the Oklahoma Health Care ~~Authority~~ Act:

1. ~~"Administrator" means the chief executive officer of the Authority;~~

~~2. "Authority" means the Oklahoma Health Care Authority;~~

~~3. "Board" means the Oklahoma Health Care Authority Board;~~

~~4.~~ "Health services provider" means health insurance carriers, pre-paid health plans, hospitals, physicians and other health care professionals, and other entities who contract with the ~~Authority~~ Division for the delivery of health care services to state and education employees and persons covered by the state Medicaid program; and

~~5.~~ 2. "State-purchased health care" or "state-subsidized health care" means medical and health care, pharmaceuticals and medical equipment purchased with or supported by state and federal funds through ~~the Oklahoma Health Care Authority,~~ the Department of Mental Health and Substance Abuse Services, the State Department of Health, the Department of Human Services, the Department of Corrections, the Department of Veterans Affairs, other state agencies administering state-purchased or state-subsidized health care programs, the Oklahoma State Regents for Higher Education, the State Board of Education and local school districts.

SECTION 5. AMENDATORY 63 O.S. 2001, Section 5006, is amended to read as follows:

Section 5006. A. ~~There is hereby created the~~ The Oklahoma Health Care ~~Authority. The Authority~~ Division within the Department of Human Services shall have the power and duty to:

1. Purchase health care benefits for Medicaid recipients, and others who are dependent on the state for necessary medical care, as specifically authorized by law;

2. Enter into contracts for the delivery of state-purchased health care and establish standards and criteria which must be met by entities to be eligible to contract with the ~~Authority~~ Division for the delivery of state-purchased health care;

3. Develop a proposed standard basic health care benefits package or packages to be offered by health services providers, for Medicaid recipients;

4. Study all matters connected with the provision of state-purchased and state-subsidized health care coverage;

5. Develop and submit plans, reports and proposals, provide information and analyze areas of public and private health care interaction pursuant to the provisions of the Oklahoma Health Care ~~Authority~~ Act;

6. Serve as a resource for information on state-purchased and state-subsidized health care access, cost containment and related health issues;

7. Administer programs and enforce laws placed under the jurisdiction of the ~~Authority~~ Division pursuant to the Oklahoma Health Care ~~Authority~~ Act, and such other duties prescribed by law;

8. Collaborate with and assist the Insurance Commissioner in the development of a Uniform Claim Processing System for use by third-party payors and health care providers;

9. Collaborate with and assist the State Department of Health with the development of licensure standards and criteria for pre-paid health plans; and

10. Exercise all incidental powers which are necessary and proper to carry out the purposes of the Oklahoma Health Care ~~Authority~~ Act.

B. All positions within the ~~Authority~~ Division shall be ~~unclassified until approval of the annual business and personnel plan submitted by January 1, 1995, by the Governor and the Legislature. In the annual business plan submitted January 1, 1995, the Board shall include a personnel plan which shall list, describe and justify all unclassified positions within the Authority and their compensation. All other employees and positions shall be~~ classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act.

SECTION 6. AMENDATORY 63 O.S. 2001, Section 5007, is amended to read as follows:

Section 5007. ~~A. There is hereby created the Oklahoma Health Care Authority Board. On and after July 1, 1994, as the terms of the initially appointed members expire, the Board shall be composed of seven appointed members who shall serve for terms of four (4) years and shall be appointed as follows:~~

~~1. Two members shall be appointed by the President Pro Tempore of the Senate;~~

~~2. Two members shall be appointed by the Speaker of the House of Representatives; and~~

~~3. Three members shall be appointed by the Governor. Two of the members appointed by the Governor shall be consumers.~~

~~B. Members appointed pursuant to this paragraph, with the exception of the consumer members, shall include persons having experience in medical care, health care services, health care delivery, health care finance, health insurance and managed health care. Consumer members shall have no financial or professional interest in medical care, health care services, health care delivery, health finance, health insurance or managed care. In making the appointments, the appointing authority shall also give consideration to urban, rural, gender and minority representation.~~

~~C. As the terms of office of members appointed before July 1, 1995, expire, appointments made on or after July 1, 1995, shall be subject to the following requirements:~~

~~1. One member appointed by the Governor shall be a resident of the First Congressional District. The term of office of the member appointed by the Governor and serving as of the effective date of this act shall expire on September 1, 2003;~~

~~2. One member appointed by the President Pro Tempore of the Senate shall be a resident of the Second Congressional District and a consumer. The term of office of the member appointed by the President Pro Tempore of the Senate and serving as of the effective date of this act shall expire on September 1, 1999;~~

~~3. One member appointed by the President Pro Tempore of the Senate shall be a resident of the Third Congressional District. The term of office of the member appointed by the President Pro Tempore of the Senate and serving as of the effective date of this act shall expire on September 1, 2004;~~

~~4. One member appointed by the Speaker of the House of Representatives shall be a resident of the Fourth Congressional District. The term of office of the member appointed by the Speaker of the House of Representatives and serving as of the effective date of this act shall expire on September 1, 2001;~~

~~5. One member appointed by the Speaker of the House of Representatives shall be a resident of the Fifth Congressional District and a consumer. The term of office of the member appointed by the Speaker of the House of Representatives and serving as of the effective date of this act shall expire on September 1, 1998;~~

~~6. One member appointed by the Governor shall be a resident of the Sixth Congressional District and a consumer. The term of office of the member appointed by the Governor and serving as of the effective date of this act shall expire on September 1, 2000; and~~

~~7. The second consumer member appointed by the Governor shall be appointed at large. The term of office of the member appointed by the Governor and serving as of the effective date of this act shall expire on September 1, 2002.~~

~~D. The terms of the members serving on the Board as of the effective date of this act shall expire on September 1 of the year in which the respective terms expire. Thereafter, as new terms begin, members shall be appointed to four-year staggered terms which shall expire on September 1. Should a member serve less than a four-year term, the term of office of the member subsequently appointed shall be for the remainder of the four-year term.~~

~~E. On and after July 1, 1994, any subsequently appointed administrator of the Authority shall be appointed by the Board. The administrator shall have the training and experience necessary for the administration of the Authority, as determined by the Board, including, but not limited to, prior experience in the administration of managed health care. The administrator shall serve at the pleasure of the Board.~~

~~F. The Board~~ The Commission for Human Services shall have the power and duty to:

1. Establish the policies of the Oklahoma Health Care ~~Authority~~ Division;

2. ~~Appoint the Administrator of the Authority;~~

~~3.~~ Adopt and promulgate rules as necessary and appropriate to carry out the duties and responsibilities of the ~~Authority~~ Division. The ~~Board~~ Commission shall be the rulemaking body for the ~~Authority~~ Division; and

~~4.~~ 3. Adopt, publish and submit by January 1 of each year to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives appropriate administrative policies and the business plan for that year. All actions governed

by ~~said~~ the administrative policies and annual business plan shall be examined annually in an independent audit.

~~G. 1. A vacancy in a position shall be filled in the same manner as provided in subsection A of this section.~~

~~2. A majority of the members of the Board shall constitute a quorum for the transaction of business and for taking any official action. Official action of the Board must have a favorable vote by a majority of the members present.~~

~~3. Members appointed pursuant to subsection A of this section shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.~~

~~H. The Board and the Authority shall act in accordance with the provisions of the Oklahoma Open Meeting Act, the Oklahoma Open Records Act and the Administrative Procedures Act.~~

SECTION 7. AMENDATORY 63 O.S. 2001, Section 5008, is amended to read as follows:

Section 5008. A. The ~~Administrator~~ Division director of the ~~Authority~~ Oklahoma Health Care Division within the Department of Human Services shall have the training and experience necessary for the administration of the ~~Authority~~ Division, as determined by the ~~Oklahoma Health Care Authority Board~~ Commission for Human Services, including, but not limited to, prior experience in the administration of managed health care. The ~~Administrator~~ Division director shall serve at the pleasure of the ~~Board~~ Director of Human Services.

B. ~~The Administrator of the Oklahoma Health Care Authority shall be the chief executive officer of the Authority and shall act for the Authority in all matters except as may be otherwise provided by law.~~ The powers and duties of the ~~Administrator~~ Division director shall include, but not be limited to:

1. Supervision of the activities of the ~~Authority~~ Division;

2. Formulation and recommendation of rules for approval or rejection by the ~~Oklahoma Health Care Authority Board~~ Commission for Human Services and enforcement of rules and standards promulgated by the ~~Board~~ Commission;

3. Preparation of the plans, reports and proposals required by the Oklahoma Health Care ~~Authority~~ Act~~, Section 5003 et seq. of this title~~, other reports as necessary and appropriate, and an annual budget for the review and approval of the ~~Board~~ Commission;

4. Employment of such staff as may be necessary to perform the duties of the ~~Authority~~ Division including, but not limited to, an attorney to provide legal assistance to the ~~Authority~~ Division for the state Medicaid program; and

5. Establishment of a contract bidding process which:

a. encourages competition among entities contracting with the ~~Authority~~ Division for state-purchased and state-subsidized health care; provided, however, the ~~Authority~~ Division may make patient volume adjustments to any managed care plan whose prime contractor is a state-sponsored, nationally accredited medical school. The ~~Authority~~ Division may also make education or research supplemental payments to state-sponsored, nationally accredited medical schools based on the level of participation in any managed care plan by managed care plan participants,

b. coincides with the state budgetary process, and

c. specifies conditions for awarding contracts to any insuring entity.

C. The ~~Administrator~~ Division director, with the approval of the Director of Human Services, may appoint advisory committees as necessary to assist the ~~Authority~~ Division with the performance of its duties or to provide the ~~Authority~~ Division with expertise in technical matters.

SECTION 8. AMENDATORY 63 O.S. 2001, Section 5009, is amended to read as follows:

Section 5009. A. ~~On and after July 1, 1993, the~~ The Oklahoma Health Care ~~Authority~~ Division within the Department of Human Services shall be the state entity designated by law to assume the responsibilities for the ~~preparation and development for converting the present delivery of the Oklahoma~~ state Medicaid ~~Program to a~~ program managed care system. The system shall emphasize:

1. Managed care principles, including a capitated, prepaid system with either full or partial capitation, provided that highest priority shall be given to development of prepaid capitated health plans;

2. Use of primary care physicians to establish the appropriate type of medical care a Medicaid recipient should receive; and

3. Preventative care.

The ~~Authority~~ Division shall also study the feasibility of allowing a private entity to administer all or part of the managed care system.

B. ~~On and after January 1, 1995, the Authority~~ The Division shall be the designated state ~~agency~~ entity or the administration of the ~~Oklahoma~~ state Medicaid ~~Program.~~

~~1. The Authority~~ program, and as such shall ~~contract with the Department of Human Services for the determination of~~ determine Medicaid eligibility and other administrative or operational functions related to the ~~Oklahoma~~ state Medicaid ~~Program~~ program as necessary and appropriate.

~~2. To the extent possible and appropriate, upon the transfer of the administration of the Oklahoma Medicaid Program, the Authority shall employ the personnel of the Medical Services Division of the Department of Human Services.~~

~~3. The Department of Human Services and the Authority shall jointly prepare a transition plan for the transfer of the~~

~~administration of the Oklahoma Medicaid Program to the Authority. The transition plan shall include provisions for the retraining and reassignment of employees of the Department of Human Services affected by said transfer. The transition plan shall be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives on or before January 1, 1995.~~

C. In order to provide adequate funding for the unique training and research purposes associated with the demonstration program conducted by the entity described in paragraph 7 of subsection B of Section 6201 of Title 74 of the Oklahoma Statutes, and to provide services to persons without regard to their ability to pay, the Oklahoma Health Care ~~Authority~~ Division shall analyze the feasibility of establishing a Medicaid reimbursement methodology for nursing facilities to provide a separate Medicaid payment rate sufficient to cover all costs allowable under Medicare principles of reimbursement for the facility to be constructed or operated, or constructed and operated, by the organization described in paragraph 7 of subsection B of Section 6201 of Title 74 of the Oklahoma Statutes.

D. For the purpose of reducing inequities between the health care benefits available to Medicaid beneficiaries in the rural and the urban areas of the state and to improve the health care available to rural beneficiaries, the ~~Authority~~ Division shall:

1. Amend the Medicaid fee-for-service program to:

   a. increase the hospital inpatient day limit,

   b. increase the hospital reimbursement rate for:

      (1) emergency room services,

      (2) ambulatory surgical services,

      (3) maternity services for mother and child, and

      (4) critical access hospital services, and

c. increase the reimbursement rate for services provided to eligible persons including, but not limited to:

(1) dental services,

(2) home health services,

(3) ambulance services,

(4) laboratory services, and

(5) services provided by other Medicaid-authorized medical service providers, including, but not limited to optometrists, chiropractors, opticians, psychologists, speech pathologists and occupational therapists; and

2. Implement financial incentives for physicians to practice in underserved rural communities, which may include, but shall not be limited to, increases in physician reimbursement rates.

SECTION 9. AMENDATORY 63 O.S. 2001, Section 5009.1, is amended to read as follows:

Section 5009.1 A. 1. The Oklahoma Health Care ~~Authority~~ Division within the Department of Human Services may accept grants from the federal government of monies or services for the purpose of augmenting any assistance program or other program within the jurisdiction of the ~~Authority~~ Division or to reimburse the state for any such assistance payments.

2. The ~~Authority~~ Division shall comply with the requirements of any federal agency governing the federal grants in any manner not inconsistent with the Constitution and laws of this state.

B. The ~~Authority~~ Division may make apportionments in advance of funds under its control, in accordance with the requirements of the federal government, when such funds are to be matched in whole or in part by federal funds; provided, the provisions of this subsection shall not authorize the ~~Authority~~ Division to make apportionments in advance of such funds in violation of any constitutional or statutory restrictions or provisions.

SECTION 10. AMENDATORY 63 O.S. 2001, Section 5009.2, is amended to read as follows:

Section 5009.2 A. The Advisory Committee on Medical Care for Public Assistance Recipients, created by the Oklahoma Health Care ~~Authority~~ Division within the Department of Human Services, pursuant to 42 Code of Federal Regulations, Section 431.12, for the purpose of advising the ~~Authority~~ Division about health and medical care services, shall include among its membership the following:

1. Board-certified physicians and other representatives of the health professions who are familiar with the medical needs of low-income population groups and with the resources available and required for their care. The Advisory Committee shall, at all times, include at least one physician from each of the six classes of physicians listed in Section 725.2 of Title 59 of the Oklahoma Statutes; provided, however, such physicians shall be participating providers in the State Medicaid Plan;

2. Members of consumers' groups, including, but not limited to:

a. Medicaid recipients, and

b. representatives from each of the following consumer organizations which represent the interests of:

(1) people who are economically disadvantaged,

(2) children,

(3) the elderly,

(4) people with mental illness,

(5) people who are developmentally disabled, and

(6) people with alcohol or substance abuse problems; and

3. The Director of the Department of Human Services.

B. The Advisory Committee shall meet bimonthly to review and make recommendations related to:

1. Policy development and program administration;

2. Policy changes proposed by the ~~Authority~~ Division prior to consideration of such changes by the ~~Authority~~ Division;

3. Financial concerns related to the ~~Authority~~ Division and the administration of the programs under the ~~Authority~~ Division; and

4. Other pertinent information related to the management and operation of the ~~Authority~~ Division and the delivery of health and medical care services.

C. 1. The ~~Administrator of the Authority~~ Division director shall provide such staff support and independent technical assistance as needed by the Advisory Committee to enable the Advisory Committee to make effective recommendations.

2. The Advisory Committee shall elect from among its members a chair and a vice-chair. A majority of the members of the Advisory Committee shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Advisory Committee.

3. Members shall not receive any compensation for their services, but shall be reimbursed pursuant to the provisions of the State Travel Reimbursement Act~~, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes~~.

D. The ~~Authority~~ Division shall give due consideration to the comments and recommendations of the Advisory Committee in the ~~Authority's~~ Division's deliberations on policies, administration, management and operation of the ~~Authority~~ Division.

SECTION 11. AMENDATORY 63 O.S. 2001, Section 5009.4, is amended to read as follows:

Section 5009.4 A. The duties of the Advisory Task Force on SoonerCare shall include:

1. Addressing methods of educating SoonerCare members regarding access to and proper utilization of emergency medical services provided by hospitals and other health care providers;

2. Reviewing the eligibility determination process of the Department of Human Services to ensure accuracy on physician assignments and adequacy of education regarding availability of and access to services;

3. Reviewing issues related to notification of participants by contracting providers as a condition of payment;

4. Actively promoting equitable reimbursement rates for emergency room screening; and

5. Addressing patient and provider educational endeavors necessary for expansion of SoonerCare to the Aged, Blind and Disabled and Title XXI populations.

B. The Task Force shall make recommendations to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives no later than January 31, 2001.

SECTION 12. AMENDATORY 63 O.S. 2001, Section 5010, is amended to read as follows:

Section 5010. The ~~Authority~~ Oklahoma Health Care Division within the Department of Human Services shall analyze the state-purchased and state-subsidized health care programs and explore options for cost containment and delivery alternatives for those programs that are consistent with the purposes of those programs, including, but not limited to:

1. Creation of economic incentives for the persons for whom the state purchases or subsidizes health care to appropriately utilize and purchase health care services, including the development of flexible benefit plans to offset increases in individual financial responsibility;

2. Utilization of provider arrangements that encourage cost containment and ensure access to quality care, including, but not limited to, prepaid delivery systems, utilization review, and prospective payment methods;

3. Coordination of state agency efforts to purchase drugs effectively;

4. Development of recommendations and methods for purchasing medical equipment and supporting services on a volume discount basis; and

5. Development of data systems to obtain utilization data from state-purchased and state-subsidized health care programs in order to identify cost centers, utilization patterns, provider and hospital practice patterns, and procedure costs.

SECTION 13. AMENDATORY 63 O.S. 2001, Section 5011, is amended to read as follows:

Section 5011. A. The ~~Authority~~ Oklahoma Health Care Division within the Department of Human Services shall:

1. Require utilization review and financial data review from participating entities which contract with the ~~Authority~~ Division for state-purchased and state-subsidized health care on a quarterly basis;

2. Centralize enrollment files for all persons covered by state-purchased and state-subsidized health care benefit plans;

3. Develop enrollment demographics on a plan-specific basis; and

4. Establish methods for collecting, analyzing, and disseminating information on the cost and quality of services rendered by health care providers to all persons covered by such plans.

B. The ~~administrator~~ Division director may require that any entity that contracts for the delivery of services pursuant to a state-purchased or state-subsidized health care benefit plan administered by the ~~Authority~~ Division shall provide to ~~said administrator~~ the Division director all information deemed necessary to fulfill the ~~administrator's~~ Division director's duties as set forth in the Oklahoma Health Care ~~Authority~~ Act~~, Section 5003 et~~

~~seq. of this title~~. All data related to claims and produced pursuant to the Oklahoma Health Care ~~Authority~~ Act shall be the property of this state.

C. Any savings realized pursuant to this section and Section 5009 of this title shall not be used to increase benefits unless such use is authorized by law.

SECTION 14. AMENDATORY 63 O.S. 2001, Section 5011.1, is amended to read as follows:

Section 5011.1. A. All state-purchased and state-subsidized health care benefit plans, including but not limited to Medicaid, which offer services for vision care or medical diagnosis and treatment for the eye shall allow optometrists to be providers of those services. Such state-purchased and state-subsidized health care benefit plans shall also require equal payment for the same services provided by an optometrist if the services are within the scope of practice of optometry.

B. With respect to optometric services, any state-purchased and state-subsidized health care benefit plan, including but not limited to Medicaid, which uses a gatekeeper or equivalent for referrals for services for vision care or for medical diagnosis and treatment of the eye, shall require such covered services be provided on a referral basis within the medical group or network at the request of an enrollee who has a condition requiring vision care or medical diagnosis and treatment of the eye if:

1. A referral is necessitated in the judgment of the primary care physician; and

2. Treatment for the condition falls within the licensed scope of practice of an optometrist.

C. All state-purchased and state-subsidized health care benefit plans shall have a defined set of standards and procedures for selecting providers, including specialists, to serve enrollees. The standards and procedures shall be drafted in such a manner that they

are applicable to all categories of providers and shall be utilized by the health plan in a manner that is without bias for or discrimination against a particular category or categories of providers.

D. No health care benefit plan specified by this section shall require a provider to have hospital privileges if hospital privileges are not usual and customary for the services the provider provides.

E. Nothing in this section shall be construed to:

1. Prohibit any state-purchased and state-subsidized health care benefit plan which offers services for vision care or medical diagnosis and treatment for the eye from determining the adequacy of the size of its network;

2. Prohibit an optometrist from agreeing to a fee schedule;

3. Limit, expand, or otherwise affect the scope of practice of optometry; or

4. Alter, repeal, modify or affect the laws of this state except where such laws are in conflict or are inconsistent with the express provisions of this section.

F. Existing state-purchased and state-subsidized health care benefit plans shall comply with the requirements of this section upon issuance or renewal on or after ~~the effective date of this act~~ July 1, 1993.

SECTION 15. AMENDATORY 63 O.S. 2001, Section 5012, is amended to read as follows:

Section 5012. ~~On or before January 1, 1996, the Authority~~ The Oklahoma Health Care Division within the Department of Human Services shall submit plans, recommendations and proposals to the Governor and the Legislature regarding state-purchased and state subsidized health care. Said plans, proposals and recommendations shall include, but not be limited to:

1. A plan for local and regional health planning for health care delivery;

2. A proposal for the containment of health care costs;

3. In collaboration with the Oklahoma State Regents, a proposal for enhancing the number of primary care physicians and physician extenders graduating from schools in Oklahoma and remaining to practice within the state. The plan shall include recommendations for improving access to basic health care through more effective utilization of allied health care professionals and appropriate geographic distribution of physicians and other health care professionals;

4. A plan for facilitating the use of practice parameters based upon outcomes research;

5. A proposal for the utilization of Resource Based-Relative Value System for use as a rate schedule by third-party payors and health care providers; and

6. A plan to reduce liability exposure and expense for all health care providers.

SECTION 16. AMENDATORY 63 O.S. 2001, Section 5013, is amended to read as follows:

Section 5013. A. The ~~Authority~~ Oklahoma Health Care Division within the Department of Human Services shall serve as a resource for information on state-purchased and state-subsidized health care access, cost containment and related health issues, and shall:

1. Provide data and information required by the Governor, the Legislature, or its committees, and to state agencies, institutions of higher education and cities, towns, counties and school districts and to private citizens and groups, within the limitations of the resources available to the ~~Authority~~ Division;

2. Participate with any state agency or institution of higher education in developing specific goals, programs, and performance

monitoring systems to assist in the development of health care delivery in this state;

3. Conduct or contract for studies which are related to health care delivery, involving product or process innovation; and

4. Prepare, publish and distribute such studies, reports, bulletins and other materials as it considers appropriate regarding health care studies and other relevant health care topics. Provided that a copy of any material which evaluates health plans or health care providers shall be provided to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate at least sixty (60) days prior to public dissemination.

SECTION 17. AMENDATORY 63 O.S. 2001, Section 5013.1, is amended to read as follows:

Section 5013.1 A. An individual who only provides Medicaid home- and community-based personal care services, pursuant to a contract with the Oklahoma Health Care ~~Authority~~ Division within the Department of Human Services, shall be exempt from the provisions of the Home Care Act~~, Section 1-1960 et seq. of Title 63 of the Oklahoma Statutes~~.

B. The ~~Authority~~ Division, with the assistance of the Aging Services Division of the Department of Human Services, shall develop qualifying criteria that comply with federal standards for personal care services under the Medicaid program for persons providing Medicaid home- and community-based personal care services ~~pursuant to a contract with the Oklahoma Health Care Authority~~. Such criteria shall also include requirements for a criminal history investigation to be conducted on such persons pursuant to Section 1-1950.1 of Title 63 of the Oklahoma Statutes.

SECTION 18. AMENDATORY 63 O.S. 2001, Section 5014, is amended to read as follows:

Section 5014. A. 1. On and after July 1, 1997, the Oklahoma Basic Health Benefits Board is hereby abolished, and the powers,

duties and responsibilities exercised by such Board pursuant to law are hereby transferred to the Oklahoma Health Care ~~Authority Board~~ Division within the Department of Human Services. All unexpended funds, property, records, personnel and any outstanding financial obligations and encumbrances of such Board are hereby transferred to the Oklahoma Health Care ~~Authority Board~~ Division within the Department of Human Services.

2. The Director of State Finance is hereby directed to coordinate the transfer of funds, allotments, purchase orders, outstanding financial obligations or encumbrances provided for in this section.

B. 1. With regard to any program or function of the Oklahoma Basic Health Benefits Board transferred to the Oklahoma Health Care ~~Authority Board~~ Division, any rules, contracts, procedures, or agreements relating to such programs or functions are hereby transferred to the Oklahoma Health Care ~~Authority Board~~ Division for the purpose of maintaining and operating such programs and functions pursuant to law.

2. Unexpired contracts entered into by the Oklahoma Basic Health Benefits Board prior to July 1, 1995, shall remain valid for stated terms and conditions until otherwise terminated by the terms of the contract, by breach of the contract or as otherwise provided by law.

SECTION 19. AMENDATORY 63 O.S. 2001, Section 5015, is amended to read as follows:

Section 5015. The Oklahoma Health Care ~~Authority~~ Division within the Department of Human Services shall review state-purchased and state-subsidized health care programs and health care regulatory agencies, including, but not limited to, medical services within the Department of Mental Health and Substance Abuse Services, the Department of Veterans Affairs, the Department of Human Services, the State Department of Health, the Oklahoma Medical Center, the

State Education and Employees Group Insurance Board, and any other state-purchased and state-subsidized health care programs as deemed appropriate by the ~~administrator~~ Division director, and submit to the Legislature~~, no later than December 1, 1995,~~ an initial report ~~including~~ that includes, but is not limited to:

1. A description of the respective roles of these programs and agencies regarding health care cost containment;

2. A plan to increase the combined efficiency of these programs and agencies to control costs and maintain or improve access to quality care;

3. Methods to ensure coordination between these programs and agencies and the ~~Authority~~ Division;

4. An analysis of the real and potential impacts of cost shifting; and

5. Recommendations regarding structural changes in the state's current health care delivery system.

SECTION 20. AMENDATORY 63 O.S. 2001, Section 5015.1, is amended to read as follows:

Section 5015.1 A. The Oklahoma Health Care ~~Authority Board shall establish a legal division or unit in the Oklahoma Health Care Authority. The Administrator of the Oklahoma Health Care Authority~~ Division within the Department of Human Services may employ attorneys as needed, which may be on full-time and part-time basis. Provided the Oklahoma Health Care ~~Authority~~ Division shall not exceed the authorized full-time equivalent limit for attorneys as specified by the Legislature in the appropriations bill for the ~~Authority~~ Division. Except as otherwise provided by this section, such attorneys, in addition to advising the ~~Board, Administrator and Authority~~ Commission for Human Services, the Division director and personnel on legal matters, may appear for and represent the ~~Board, Administrator and Authority~~ Division and the Department in legal actions and proceedings.

B. The Legislature shall establish full-time-equivalent limits for attorneys employed by the Oklahoma Health Care ~~Authority~~ Division.

C. It shall continue to be the duty of the Attorney General to give official opinions to the ~~Board, Administrator and Authority~~ Division, and to prosecute and defend actions therefor, if requested to do so. The Attorney General may levy and collect costs, expenses of litigation and a reasonable attorney fee for such legal services from the ~~Authority~~ Division. The Attorney General is authorized to levy and collect costs, expenses and fees which exceed the costs associated with the salary and benefits of one attorney FTE position per fiscal year.

D. The ~~Board, Administrator or Authority~~ Division shall not contract for representation by private legal counsel unless approved by the Attorney General. Such contract for private legal counsel shall be in the best interests of the state.

E. 1. The Attorney General shall be notified by the Board or its counsel of all lawsuits against the ~~Authority~~ Division, its officers or employees that seek injunctive relief which would impose obligations requiring the expenditure of funds in excess of unencumbered monies in the agency's appropriations or beyond the current fiscal year.

2. The Attorney General shall review any such cases and may represent the interests of the state, if the Attorney General considers it to be in the best interest of the state to do so, in which case the Attorney General shall be paid as provided in subsection C of this section. Representation of multiple defendants in such actions may, at the discretion of the Attorney General, be divided with counsel for the ~~Board, Administrator and Authority~~ Division as necessary to avoid conflicts of interest.

SECTION 21. AMENDATORY 63 O.S. 2001, Section 5016, is amended to read as follows:

Section 5016. There is hereby created in the State Treasury a revolving fund for the Oklahoma Health Care ~~Authority~~ Division to be designated the "Oklahoma Health Care ~~Authority~~ Division Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the ~~Authority~~ Division, from any source. All monies accruing to the credit of ~~said~~ the fund are hereby appropriated and may be budgeted and expended by the ~~Authority~~ Division for any purpose authorized by law. Expenditures from ~~said~~ the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 22. AMENDATORY 56 O.S. 2001, Section 1002, is amended to read as follows:

Section 1002. As used in the Oklahoma Medicaid Program Integrity Act:

1. ~~"Authority" means the Oklahoma Health Care Authority;~~

~~2.~~ "Attorney General" means the Attorney General of this state, his employees or his authorized representatives;

~~3.~~ 2. "Claim" means a communication, including written, electronic, or magnetic, which is utilized to identify a good, item, or service as reimbursable pursuant to the Oklahoma Medicaid Program, or which states income or expense and is or may be used to determine a rate of payment pursuant to the Oklahoma Medicaid Program; and any application for payment by any person from the Oklahoma Medicaid Program or its fiscal agents for each good or service purported by any person to have been provided by any person to any Medicaid recipient;

3. "Department" means the Department of Human Services;

4. "Fiscal agents" means any individual, firm, corporation, professional association, partnership, organization, or other legal entity which, through a contractual relationship with the Oklahoma ~~Health Care Authority~~ Department of Human Services and, thereby, the

State of Oklahoma, receives, processes, and pays claims under the Oklahoma Medicaid Program;

5. "Kickback" means a return in any form by any individual, company, corporation, partnership, or association of a part of an expenditure made by a provider:

a. to the same provider,

b. to an entity controlled by the provider or,

c. to an entity which the provider intends to benefit whenever such expenditure is reimbursed, or reimbursable, or claimed by a provider as being reimbursable by the Oklahoma Medicaid Program and when the sum or value returned is not credited to the benefit of the Oklahoma Medicaid Program;

6. "Medicaid recipient" means any individual in whose behalf any person claimed or received any payment or payments from the Oklahoma Medicaid Program or its fiscal agents, whether or not any such individual was eligible for benefits under the Oklahoma Medicaid Program;

7. "~~Oklahoma~~ State Medicaid ~~Program~~ program" means the state program administered by the Oklahoma Health Care ~~Authority~~ Division within the Department of Human Services pursuant to Title XIX of the federal Social Security Act, which provides for payments for medical goods or services on behalf of indigent families with dependent children and of aged, blind, or disabled individuals whose income and resources are insufficient to meet the cost of necessary medical services;

8. "Person" means any Medicaid provider of goods or services or any employee of such provider, whether that provider is an individual, individual medical vendor, firm, corporation, professional association, partnership, organization, or other legal entity under the Oklahoma Medicaid Program, or any individual, individual medical vendor, firm, corporation, professional

association, partnership, organization, other legal entity, or any employee of such who is not a provider under the Oklahoma Medicaid Program but who provides goods or services to a provider under the Oklahoma Medicaid Program for which the provider submits claims to the Oklahoma Medicaid Program or its fiscal agents;

9. "Provider" means any person who has applied to participate or who participates in the Oklahoma Medicaid Program as a supplier of a good or a service;

10. "Records" means all medical, professional, or business records or documents relating to the treatment or care of any recipient, or to a good or a service provided to any such recipient, or to rates or amounts paid or claimed for such a good or a service including but not limited to records of non-Medicaid goods or services to verify rates or amounts; and any records required to be kept by the ~~Oklahoma Health Care Authority~~ Department of Human Services to be kept by any person; and

11. "Sign" means to affix a signature directly or indirectly by means of handwriting, typewriter, signature stamp, computer impulse, or other means recognized by Oklahoma Law.

SECTION 23. AMENDATORY 56 O.S. 2001, Section 1003, is amended to read as follows:

Section 1003. A. There is hereby created within the Office of the Attorney General, a Medicaid fraud control unit.

B. The Medicaid fraud control unit shall be the state entity to which all cases of suspected Medicaid fraud shall be referred by the Oklahoma Health Care ~~Authority~~ Division within the Department of Human Services or its fiscal agents for the purposes of investigation, civil action, criminal action or referral to the district attorney~~. Provided~~; provided, however, nothing contained in the Oklahoma Medicaid Program Integrity Act shall prohibit the Oklahoma Health Care ~~Authority~~ Division from investigating or

additionally referring to other proper law enforcement agencies cases of suspected Medicaid fraud.

C. 1. In carrying out these responsibilities, the Attorney General shall have all the powers necessary to comply with federal laws and regulations relative to the operation of a Medicaid fraud unit, the power to cross-designate assistant United States attorneys as assistant attorneys general, the power to investigate cases of patient abuse, the power to issue or cause to be issued subpoenas or other process in aid of investigations and prosecutions, the power to administer oaths and take sworn statements under penalty of perjury, the power to serve and execute in any county, search warrants which relate to investigations authorized by the Oklahoma Medicaid Program Integrity Act and shall have all the powers of a district attorney.

2. Subpoenas ad testificandum or duces tecum issued pursuant to the Oklahoma Medicaid Program Integrity Act may be served by the Attorney General, any peace officer, or any competent person over eighteen (18) years of age, and may require attendance or production at any place in this state. A refusal to obey such subpoena, or willful failure to appear, be sworn, testify, or produce records at the place and time specified shall constitute contempt and shall be enforced by the district court of the county where issued or the county where served, at the election of the Attorney General, as if it was a contempt on that court.

D. The Attorney General shall have authority to collect all penalties, amounts of restitution, or interest accruing on any amount of restitution to be made and any penalties to be paid from and after default in the payment thereof levied pursuant to the provisions of the Oklahoma Medicaid Program Integrity Act. However, this subsection is not in any way intended to affect the contempt power of any court.

SECTION 24. AMENDATORY 56 O.S. 2001, Section 1004, is amended to read as follows:

Section 1004. A. No potential Medicaid recipient shall be eligible for medical assistance unless such recipient has, in writing, authorized the Oklahoma Health Care ~~Authority~~ Division within the Department of Human Services and the Attorney General to examine all records maintained as required by the Oklahoma Medicaid Program by the recipient, or of those receiving or having received Medicaid benefits through the recipient, whether the receipt of such benefits would be allowed by the Oklahoma Medicaid Program or not.

B. 1. Each application to participate as a provider in the Oklahoma Medicaid Program, each report stating income or expense upon which rates of payment are or may be based, and each invoice for payment for a good or a service provided to recipient, shall contain a statement that all matters stated therein are true and accurate, signed by the provider or his agent. Any person who signs this statement or causes another to sign this statement knowing the statement to be false shall be guilty of perjury. For purposes of this subsection, an individual who signs on behalf of a provider shall be presumed to have the authorization of the provider and to be acting at his direction.

2. All providers subject to the Oklahoma Medicaid Program are required to maintain at their or its principal place of Medicaid business all such records at least for a period of six (6) years from the date of claimed provision of any goods or services to any Medicaid recipient.

C. The Attorney General shall be allowed access to all records of persons and Medicaid recipients under the Oklahoma Medicaid Program which are held by a provider, for the purpose of investigating whether any person may have committed the crime of Medicaid fraud, or for use or potential use in any legal, administrative, or judicial proceeding. In carrying out the

purposes of the Oklahoma Medicaid Program Integrity Act, the Attorney General may take possession of records held by a provider by subpoena, in which case copies of those records obtained by the Attorney General which are necessary for the provider to continue doing business shall be supplied to the provider, or the Attorney General may elect to require that the provider supply the Medicaid fraud control unit within the office of the Attorney General with copies of the records.

D. Records obtained or created by the ~~Authority~~ Division or the Attorney General pursuant to the Oklahoma Medicaid Program Integrity Act shall be classified as confidential information and shall not be subject to the Oklahoma Open Records Act or to outside review or release by any individual except, if authorized by the Attorney General, in relation to legal, administrative, or judicial proceeding.

E. No person holding such records may refuse to provide the ~~Authority~~ Division or the Attorney General with access to such records on the basis that release would violate any recipient's right of privacy, any recipient's privilege against disclosure or use, or any professional or other privilege or right. The disclosure of patient information as required by the Oklahoma Medicaid Program Integrity Act shall not subject any physician or other health services provider to liability for breach of any confidential relationship between a patient and a provider.

SECTION 25. AMENDATORY 56 O.S. 2001, Section 1005, is amended to read as follows:

Section 1005. A. It shall be unlawful for any person to willfully and knowingly:

1. Make or cause to be made a claim, knowing the claim to be false, in whole or in part, by commission or omission;

2. Make or cause to be made a statement or representation for use in obtaining or seeking to obtain authorization to provide a

good or a service knowing the statement or representation to be false, in whole or in part, by commission or omission;

3. Make or cause to be made a statement or representation for use by another in obtaining a good or a service under the Oklahoma Medicaid Program, knowing the statement or representation to be false, in whole or in part, by commission or omission;

4. Make or cause to be made a statement or representation for use in qualifying as a provider of a good or a service under the Oklahoma Medicaid Program, knowing the statement or representation to be false, in whole or in part, by commission or omission;

5. Charge any recipient or person acting on behalf of a recipient, money or other consideration in addition to or in excess of rates of remuneration established under the Oklahoma Medicaid Program;

6. Solicit or accept a benefit, pecuniary benefit, or kickback in connection with goods or services paid or claimed by a provider to be payable by the Oklahoma Medicaid Program; or

7. Having submitted a claim for or received payment for a good or a service under the Oklahoma Medicaid Program, fail to maintain or destroy such records as required by law or the rules of the ~~Oklahoma Health Care Authority~~ Commission for Human Services for a period of at least six (6) years following the date on which payment was received.

B. For the purposes of this section, a person shall be deemed to have made or caused to be made a claim, statement, or representation if the person:

1. Had the authority or responsibility to make the claim, statement, or representation, to supervise those who made the claim, statement, or representation, or to authorize the making of the claim, statement, or representation, whether by operation of law, business or professional practice, or office procedure; and

2. Exercised such authority or responsibility or failed to exercise such authority or responsibility and as a direct or indirect result, the false statement was made.

C. The provisions of this section shall not be construed to prohibit any payment, business arrangement or payment practice not prohibited by 42 U.S.C., Section 1320a-7b(b) or any regulations promulgated pursuant thereto or to prohibit any payment, business arrangement or payment practice not prohibited by Section 1-742 of Title 63 of the Oklahoma Statutes.

D. For the purposes of this section, a person shall be deemed to have known that a claim, statement, or representation was false if the person knew, or by virtue of the person's position, authority or responsibility, had reason to know, of the falsity of the claim, statement or representation.

E. Any employee of the State Department of Health~~,~~ or the Department of Human Services ~~or the Oklahoma Health Care Authority~~ who knowingly or willfully fails to promptly report a violation of the Oklahoma Medicaid Program, subject to the provisions of this section, to the chief administrative officer of such agency or the State Attorney General shall, upon conviction thereof, be guilty of a misdemeanor.

SECTION 26. AMENDATORY 56 O.S. 2001, Section 1007, is amended to read as follows:

Section 1007. A. Any person who receives payment for furnishing goods or services under the Oklahoma Medicaid Program, which the person is not entitled to receive by reason of offenses under paragraphs 1 through 6 of subsection A of Section 1005 of this title, shall, in addition to any other penalties provided by law, be liable for:

1. Full restitution to the ~~Oklahoma Health Care Authority~~ Department of Human Services of all funds or payments received in violation of the Oklahoma Medicaid Program Integrity Act which shall

be returned to the ~~Authority~~ Department for deposit to the Oklahoma Health Care ~~Authority~~ Division Medicaid Program Fund, created in Section ~~6 of this act~~ 5020 of Title 63 of the Oklahoma Statutes;

2. Payment of interest on the amount of the excess payment at the maximum legal rate in effect on the date the payment was made to the person for the period from the date upon which payment was made to the date upon which the repayment is made to the ~~Authority~~ Department. All such payments shall be deposited in the Oklahoma Health Care ~~Authority~~ Division Medicaid Program Fund, created in Section ~~6 of this act~~ 5020 of Title 63 of the Oklahoma Statutes; and

3. The cost of investigation, litigation, and attorney fees, which shall be deposited to the General Revenue Fund.

B. 1. In addition to the penalties imposed by paragraphs 1, 2 and 3 of subsection A of this section, any person who receives payment for furnishing goods or services under the Oklahoma Medicaid Program, which the person is not entitled to receive by reason of violation of paragraphs 1 through 6 of subsection A of Section 1005 of this title, shall be liable for one of the following penalties:

a. a civil penalty of two (2) times the amount of restitution and interest thereon from date of judgment, which shall be deposited to the General Revenue Fund, or

b. a civil penalty in the sum of Two Thousand Dollars ($2,000.00) and interest thereon from date of judgment for each false or fraudulent claim, statement, or representation submitted for providing goods or services, which shall be deposited to the General Revenue Fund.

2. A criminal action need not be brought against the person before civil liability attaches under this section.

C. In addition to the sanctions provided by the Oklahoma Medicaid Program Integrity Act, the ~~Authority~~ Department of Human

Services may, upon the conviction of or the entry of an administrative, civil or criminal judgment against any person wherein Medicaid fraud on the person's part is involved, suspend the provider agreement between the ~~Authority~~ Department and the person and stop reimbursement to the person for goods or services claimed for a period of up to five (5) years from the date of final adjudication of the matter.

SECTION 27. AMENDATORY 56 O.S. 2001, Section 1010.1, is amended to read as follows:

Section 1010.1 A. Sections 1010.1 through 1010.7 of this title shall be known and may be cited as the "Oklahoma Medicaid Healthcare Options Act".

B. In order to establish a coordinated approach to delivering and monitoring health care services and to ensure an efficient and appropriate level of quality health care services to eligible persons requiring such services, there is hereby established a statewide managed care system of comprehensive health care delivery through the Oklahoma Medicaid Program, which shall include, but not be limited to, prepaid capitated plans and primary case management plans, and which shall be offered in all geographic areas of the state.

C. The Oklahoma Health Care ~~Authority~~ Division within the Department of Human Services shall provide coverage under the state Medicaid program to children under the age of eighteen (18) years whose family incomes do not exceed one hundred eighty-five percent (185%) of the federal poverty level.

SECTION 28. AMENDATORY 56 O.S. 2001, Section 1010.2, is amended to read as follows:

Section 1010.2 A. As used in the Oklahoma Medicaid Healthcare Options Act:

~~1. "Authority" means the Oklahoma Health Care Authority;~~

~~2. "Board" means the Oklahoma Health Care Authority Board;~~

~~3. "Administrator" means the chief executive officer of the Oklahoma Health Care Authority~~ "Department means the Department of Human Services;

~~4.~~ 2. "Eligible person" means any person who meets the minimum requirements established by rules promulgated by the Department of Human Services pursuant to the requirements of Title XIX of the federal Social Security Act, 42 U.S.C., Section 1396 et seq.;

~~5.~~ 3. "Member" means an eligible person who enrolls in the Oklahoma Medicaid Healthcare Options System;

~~6.~~ 4. "Nonparticipating provider" means a person who provides hospital or medical care pursuant to the Oklahoma Medicaid Program but does not have a managed care health services contract or subcontract within the Oklahoma Medicaid Healthcare Options System;

~~7.~~ 5. "Prepaid capitated" means a mode of payment by which a health care provider directly delivers health care services for the duration of a contract to a maximum specified number of members based on a fixed rate per member, regardless of the actual number of members who receive care from the provider or the amount of health care services provided to any member;

~~8.~~ 6. "Participating provider" means any person or organization who contracts with the ~~Authority~~ Department of Human Services for the delivery of hospitalization, eye care, dental care, medical care and other medically related services to members or any subcontractor of such provider delivering services pursuant to the Oklahoma Medicaid Healthcare Options System; and

~~9.~~ 7. "System" means the Oklahoma Medicaid Healthcare Options System established by the Oklahoma Medicaid Healthcare Options Act.

SECTION 29. AMENDATORY 56 O.S. 2001, 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~~ Division within the Department of Human Services 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~~ Division 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. 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. Except as hereinafter provided, 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, managed care plans shall be developed for all participants who are institutionalized; provided, however, this requirement shall not apply to individuals who are developmentally disabled; 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.

D. The ~~Oklahoma Health Care Authority~~ Department 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. 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 30. AMENDATORY 56 O.S. 2001, Section 1010.4, is amended to read as follows:

Section 1010.4 A. The Oklahoma Health Care ~~Authority~~ Division within the Department of Human Services shall take all steps necessary to implement the Oklahoma Medicaid Healthcare Options System as required by the Oklahoma Medicaid Healthcare Options Act.

B. The implementation of the System shall include, but not be limited to, the following:

1. Development of operations plans for the System which include reasonable access to hospitalization, eye care, dental care, medical care and other medically related services for members, including but not limited to access to twenty-four-hour emergency care;

2. Contract administration and oversight of participating providers;

3. Technical assistance services to participating providers and potential participating providers;

4. Development of a complete plan of accounts and controls for the System including, but not limited to, provisions designed to ensure that covered health and medical services provided through the System are not used unnecessarily or unreasonably;

5. Establishment of peer review and utilization study functions for all participating providers;

6. Technical assistance for the formation of medical care consortiums to provide covered health and medical services under the System. Development of service plans and consortiums may be on the basis of medical referral patterns;

7. Development and management of a provider payment system;

8. Establishment and management of a comprehensive plan for ensuring the quality of care delivered by the System;

9. Establishment and management of a comprehensive plan to prevent fraud by members, eligible persons and participating providers of the System;

10. Coordination of benefits provided under the Oklahoma Medicaid Healthcare Options Act to any member;

11. Development of a health education and information program;

12. Development and management of a participant enrollment system;

13. Establishment and maintenance of a claims resolution procedure to ensure that a submitted claim is resolved within forty-five (45) days of the date the claim is correctly submitted;

14. Establishment of standards for the coordination of medical care and patient transfers;

15. Provision for the transition of patients between participating providers and nonparticipating providers;

16. Provision for the transfer of members and persons who have been determined eligible from hospitals which do not have contracts to care for such persons;

17. Specification of enrollment procedures including, but not limited to, notice to providers of enrollment. Such procedures may provide for varying time limits for enrollment in different situations;

18. Establishment of uniform forms and procedures to be used by all participating providers;

19. Methods of identification of members to be used for determining and reporting eligibility of members; and

20. Establishment of a comprehensive eye care and dental care system which:

a. includes practitioners as participating providers,

b. provides for quality care and reasonable and equal access to such practitioners, and

c. provides for the development of service plans, referral plans and consortiums which result in referral practices that reflect timely, convenient and cost-effective access to such care for members in both rural and urban areas.

21. a. Development of a program for Medicaid eligibility and services for individuals who are in need of breast or cervical cancer treatment and who:

(1) have family incomes that are below one hundred eighty-five percent (185%) of the federal poverty level,

(2) have not attained the age of sixty-five (65) years,

(3) have no or have inadequate health insurance or health benefit coverage for treatment of breast and cervical cancer, and

(4) meet the requirements for treatment and have been screened for breast or cervical cancer.

b. The program shall include presumptive eligibility and shall provide for treatment throughout the period of time required for treatment of the individual's breast or cervical cancer.

On or before July 1, 2002, the Oklahoma Health Care ~~Authority~~ Division within the Department of Human Services shall coordinate with the State Commissioner of Health to develop procedures to implement the program, contingent upon funds becoming available.

C. Except for reinsurance obtained by providers, the ~~Authority~~ Division shall coordinate benefits provided under the Oklahoma Medicaid Healthcare Options Act to any eligible person who is covered by workers' compensation, disability insurance, a hospital and medical service corporation, a health care services organization or other health or medical or disability insurance plan, or who

receives payments for accident-related injuries, so that any costs for hospitalization and medical care paid by the System are recovered first from any other available third party payors. The System shall be the payor of last resort for eligible persons.

D. Prior to the development of the plan of accounts and controls required by this section and periodically thereafter, the ~~Authority~~ Division shall compare the scope, utilization rates, utilization control methods and unit prices of major health and medical services provided in this state with health care services in other states to identify any unnecessary or unreasonable utilization within the System. The ~~Authority~~ Division shall periodically assess the cost effectiveness and health implications of alternate approaches to the provision of covered health and medical services through the System in order to reduce unnecessary or unreasonable utilization.

E. The ~~Authority~~ Division may contract distinct administrative functions to one or more persons or organizations who may be participating providers within the System.

F. Contracts for managed health care plans, authorized pursuant to paragraph 2 of subsection A of Section 1010.3 of this title and necessary to implement the System, and other contracts entered into prior to July 1, 1996, shall not be subject to the provisions of the Oklahoma Central Purchasing Act.

G. The ~~Board~~ Commission for Human Services shall promulgate rules:

1. Establishing appropriate competitive bidding criteria and procedures for contracts awarded pursuant to the Oklahoma Medicaid Healthcare Options Act;

2. Which provide for the withholding or forfeiture of payments to be made to a participating provider by the Oklahoma Medicaid Healthcare Options System for the failure of the participating provider to comply with a provision of the participating provider's

contract with the System or with the provisions of promulgated rules or law; and

3. Necessary to carry out the provisions of the Oklahoma Medicaid Healthcare Options Act. Such rules shall consider the differences between rural and urban conditions on the delivery of hospitalization, eye care, dental care and medical care.

SECTION 31. AMENDATORY 56 O.S. 2001, Section 1010.7A, is amended to read as follows:

Section 1010.7A. A. There is hereby created the Joint Legislative Oversight Committee for the ~~Oklahoma Health Care Authority~~ Title XIX of the federal Social Security Act.

B. The Committee shall be composed of five members of the Oklahoma State Senate, to be appointed by the President Pro Tempore of the Senate, and 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 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 field 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 Oklahoma Health Care ~~Authority Board~~ Division within the Department of Human Services.

E. Reimbursement for travel expenses shall be as provided by Section 456 of Title 74 of the Oklahoma Statutes.

F. The Committee, in conjunction with the Oklahoma Health Care ~~Authority~~ Division, as specified in Section 1010.3 of Title 56 of the Oklahoma Statutes, 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.

G. 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~~ Division, as specified in Section 1010.3 of Title 56 of the Oklahoma Statutes. The Committee's review shall include the fiscal impact of any proposed additions or modifications to populations covered or services provided by the Oklahoma Health Care ~~Authority~~ Division. 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.

H. The Committee, in conjunction with the Oklahoma Health Care ~~Authority~~ Division, as specified in Section 1010.3 of Title 56 of the Oklahoma Statutes, shall conduct a study of client advocacy and community outreach. The Committee shall further study and analyze the cost of administration of the Oklahoma Health Care ~~Authority~~ Division to determine how its administrative costs compare to the administrative costs of other health care delivery systems. 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.

I. The Oklahoma Health Care ~~Authority~~ Division shall provide members of the Committee with policy changes and rules proposed by the ~~Authority~~ Division 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 of Title 63 of the Oklahoma Statutes.

SECTION 32. AMENDATORY 56 O.S. 2001, Section 1010.8, is amended to read as follows:

Section 1010.8 There is hereby created in the State Treasury a revolving fund for the Oklahoma Health Care ~~Authority~~ Division within the Department of Human Services to be designated the "Medicaid Contingency Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all taxes levied, pursuant to subsection A of Section 624 of Title 36 of the Oklahoma Statutes, on premiums paid by entities subject to such premium tax on behalf of Medicaid recipients. All monies accruing to the credit of the fund are hereby appropriated and shall be budgeted and expended by the Oklahoma Health Care ~~Authority~~ Division within the Department of Human Services to maintain current eligibility levels under Title XIX of the federal Social Security Act, 42 U.S.C., Section 1396 et seq.

SECTION 33. REPEALER 56 O.S. 2001, Sections 1010.6 and 1010.10, are hereby repealed.

SECTION 34. This act shall become effective July 1, 2002.

SECTION 35. 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.

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