

CS for EHB 2300

1 THE STATE SENATE
2 Tuesday, April 6, 2004

3 Committee Substitute for
4 ENGROSSED
5 House Bill No. 2300

6 COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 2300 - By: TIBBS,
7 McCLAIN, LINDLEY, TOURE, WELLS, LIOTTA, ROAN, WALKER and KIRBY of
8 the House and CAIN and LAWLER of the Senate.

9 An Act relating to poor persons and public health and
10 safety; creating the Oklahoma Consumer-Directed Personal
11 Assistance and Support Services (Oklahoma CD-PASS) Act;
12 providing short title; stating purposes; stating legislative
13 findings; requiring establishment of certain demonstration
14 program upon specified approval; stating purpose of
15 demonstration program; specifying types of services to be
16 included; requiring guidelines, eligibility criteria,
17 standards and evaluation techniques; specifying
18 demonstration program requirements; allowing certain
19 consultation, contracting, and expansion under specified
20 circumstances with regard to the demonstration program;
21 requiring promulgation of necessary rules; amending 63 O.S.
22 2001, Section 1-1950.5, as amended by Section 1, Chapter 71,
23 O.S.L. 2003 (63 O.S. Supp. 2003, Section 1-1950.5), which
24 relates to caregivers; deleting obsolete references;
25 expanding definition; providing for codification; providing
26 an effective date; and declaring an emergency.

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

28 SECTION 1. NEW LAW A new section of law to be codified
29 in the Oklahoma Statutes as Section 198.11 of Title 56, unless there
30 is created a duplication in numbering, reads as follows:

31 A. Sections 1 and 2 of this act shall be known and may be cited
32 as the "Oklahoma Consumer-Directed Personal Assistance and Support
33 Services (Oklahoma CD-PASS) Act".

1 B. The purposes of the Oklahoma Consumer-Directed Personal
2 Assistance and Support Services Act are to:

3 1. Provide assistance, on a voluntary basis, to families with a
4 Medicaid-eligible member who requires long-term support services, or
5 to provide assistance to Medicaid-eligible individuals who require
6 long-term support services, so that such persons may remain in their
7 family residence or in their own home; and

8 2. Afford, on a voluntary basis, frail elderly individuals and
9 adults with disabilities who are Medicaid-eligible and who need
10 basic assistance with mobility, self-care and health maintenance,
11 the ability to have maximum control over the selection of persons
12 working on their behalf and over the manner in which personal
13 assistance services are to be provided to them.

14 C. The Oklahoma Legislature finds that:

15 1. Providing services to individuals needing in-home and
16 community-based care, as well as providing assistance to their
17 family members, should be supported;

18 2. Giving recipients of in-home and community-based services
19 and their family members a choice in the selection of services
20 needed and providers to be utilized enhances a sense of dignity and
21 autonomy for those individuals receiving care; and

22 3. Providing consumers and their families with choice and
23 control over their lives is a goal that should be supported.

1 D. The Oklahoma Legislature further recognizes the importance
2 of providing options and alternatives to persons receiving in-home
3 and community-based services, and as such, supports demonstration
4 programs that result in positive outcomes.

5 SECTION 2. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 198.11a of Title 56, unless
7 there is created a duplication in numbering, reads as follows:

8 A. The Aging Services Division within the Department of Human
9 Services, upon the approval of the Centers for Medicare and Medicaid
10 Services, shall establish the Oklahoma Consumer-Directed Personal
11 Assistance and Support Services (Oklahoma CD-PASS) Demonstration
12 Program. The purpose of the Oklahoma Consumer-Directed Personal
13 Assistance and Support Services Demonstration Program shall be to
14 enhance the range of choices and options for Medicaid-eligible
15 consumers, on a voluntary basis, who require long-term care support
16 services, and to assist families with a Medicaid-eligible member who
17 requires long-term care support services to arrange and purchase
18 their own personal care and related services.

19 B. The Oklahoma Consumer-Directed Personal Assistance and
20 Support Services Demonstration Program includes, but is not limited
21 to, the following types of services:

- 1 1. a. Basic services, such as getting a recipient in and out
2 of a bed or in or out of a wheelchair or motorized
3 chair, or both,
4 b. Assisting with certain bodily functions, such as
5 bathing and personal hygiene, dressing and grooming,
6 and feeding including preparation and cleanup;
7 2. Ancillary services such as shopping and cleaning;
8 3. Companion-type services such as transportation, letter
9 writing and reading; and
10 4. Any other service requested by the eligible recipient
11 needing care and services.
- 12 C. 1. In developing the Oklahoma Consumer-Directed Personal
13 Assistance and Support Services Demonstration Program, the Aging
14 Services Division shall develop guidelines, eligibility criteria,
15 program performance standards, and techniques to evaluate the
16 outcomes of the Oklahoma Consumer-Directed Personal Assistance and
17 Support Services Demonstration Program.
- 18 2. The Demonstration Program, at a minimum, shall have the
19 following requirements:
- 20 a. the cost in the aggregate of the services offered
21 through the CD-PASS Program care plan shall be equal
22 to or less than the average cost of the Advantage

1 Waiver Program service or personal care plan as
2 applicable,
3 b. the baseline level of consumer satisfaction shall be
4 measured by an independent third party prior to
5 initiation of the Demonstration Program,
6 c. the scope of services offered within the CD-PASS
7 Program shall comply with current state statutes and
8 rules, and federal regulations, and
9 d. program evaluation which shall include an indication
10 of whether:
11 (1) consumer satisfaction for CD-PASS Program
12 participants is higher than or equal to consumer
13 satisfaction for Advantage Waiver Program
14 clients, as measured by an independent third
15 party, and
16 (2) the percentage of delivered hours of the CD-PASS
17 Program client care plan are greater than or
18 equal to the percentage of delivered hours of the
19 Advantage Waiver Program service or personal care
20 plan.
21 D. The Aging Services Division may:

1 1. Consult with various federal, state and local entities in
2 order to fulfill the purposes of the Oklahoma Consumer-Directed
3 Personal Assistance and Support Services Demonstration Program;
4 2. Contract with entities in fulfilling the purposes of the
5 Oklahoma Consumer-Directed Personal Assistance and Support Services
6 Demonstration Program; and
7 3. Upon the approval of the Centers for Medicare and Medicaid
8 Services and the availability of funds, expand the Oklahoma
9 Consumer-Directed Personal Assistance and Support Services
10 Demonstration Program statewide if the evaluation provided for in
11 subsection C of this section demonstrates consumer satisfaction with
12 and cost effectiveness in the delivery of the Program.

13 E. The Commission for Human Services and the Oklahoma Health
14 Care Authority Board shall promulgate any rules necessary to
15 implement the provisions of the Oklahoma Consumer-Directed Personal
16 Assistance and Support Services Act.

17 SECTION 3. AMENDATORY 63 O.S. 2001, Section 1-1950.5, as
18 amended by Section 1, Chapter 71, O.S.L. 2003 (63 O.S. Supp. 2003,
19 Section 1-1950.5), is amended to read as follows:

20 Section 1-1950.5 A. 1. It shall be unlawful for a caregiver
21 to solicit or accept anything of value greater than One Dollar
22 (\$1.00) from any person in the caregiver's care; provided, however,
23 nothing in this section shall be construed as prohibiting a group of

1 individuals, including family members and friends of residents, from
2 establishing an employee recognition program consisting of
3 voluntary, anonymous and confidential donations to care providers; ~~7;~~
4 provided further, no care provider shall be included in the group
5 making decisions regarding the disbursement. Such donations may be
6 disbursed pursuant to procedures established by the group.

7 2. As used in this section, "caregiver" means a person who is:

8 a. the paid agent or employee of:

9 ~~a.~~

10 (1) an assisted living center,

11 ~~b.~~

12 (2) a nursing facility, specialized facility, or
13 residential care home as such terms are defined
14 in Section 1-1902 of ~~Title 63 of the Oklahoma~~
15 ~~Statutes~~ this title,

16 ~~c.~~

17 (3) an adult day care center as such term is defined
18 in Section 1-872 of ~~Title 63 of the Oklahoma~~
19 ~~Statutes~~ this title,

20 ~~d.~~

21 (4) a home health or home care agency, or

22 ~~e.~~

1 (5) the Department of Human Services, in its capacity
2 as an operator of any hospital or health care
3 institution, or as a contractor with providers
4 under the Personal Care Services Program, ~~but~~ or
5 b. a personal care attendant hired by a consumer under
6 the Oklahoma Consumer-Directed Personal Assistance and
7 Support Services (Oklahoma CD-Pass) Program.

8 "Caregiver" does not include a guardian, limited guardian, or
9 conservator as such terms are defined in the Oklahoma Guardianship
10 and Conservatorship Act.

11 B. Any person who violates the provisions of paragraph 1 of
12 subsection A of this section, upon conviction, shall be guilty of a
13 misdemeanor.

14 SECTION 4. This act shall become effective July 1, 2004.

15 SECTION 5. 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 resolution shall take
18 effect and be in full force from and after its passage and approval.

19 COMMITTEE REPORT BY: COMMITTEE ON HUMAN RESOURCES, dated 4-1-04 - DO
20 PASS, As Amended and Coauthored.