

CS for SB 259

THE STATE SENATE
Wednesday, February 16, 2005

Committee Substitute for
Senate Bill No. 259

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 259 - By: CAIN of the Senate and PETERS of the House.

An Act relating to poor persons; amending 56 O.S. 2001, Sections 1020 and 1025.1, as amended by Section 1, Chapter 378, O.S.L. 2002 (56 O.S. Supp. 2004, Section 1025.1), which relate to developmental disabilities services and definitions; clarifying purpose of law; requiring promulgation of rules for specified purpose; specifying content of rules; modifying definitions; and providing an effective date.

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

SECTION 1. AMENDATORY 56 O.S. 2001, Section 1020, is amended to read as follows:

Section 1020. A. The Director of the Department of Human Services shall, within the constraints of funding appropriated to the Department, establish and maintain a community-based program of services, ~~including~~ that includes, but is not limited to, establishment of foster care and supported living arrangements for ~~victims of~~ persons affected by Prader-Willi syndrome. The purpose of this section of law shall be to improve the quality of life of persons with developmental disabilities and to integrate such persons into the mainstream of society by ensuring availability of community services.

1 B. The ~~program~~ programs established pursuant to this section
2 shall be administered by the Developmental Disabilities Service
3 Division. The Commission for Human Services shall promulgate rules
4 for the operation of community-based programs for persons with
5 developmental disabilities including, but not limited to, rules
6 regarding the delivery of:

7 1. Health-related services. As used in this section, health-
8 related services means services provided by community services
9 providers or community services workers to persons with
10 developmental disabilities, and includes, but is not limited to:

11 a. personal hygiene,

12 b. transferring,

13 c. range of motion,

14 d. supervision or assistance with activities of daily
15 living,

16 e. basic nursing care, such as taking the person's
17 temperature, pulse or respiration, positioning,
18 incontinent care, and identification of signs and
19 symptoms of disease. Certain tasks that may be
20 performed as basic nursing care by community services
21 workers require appropriate training provided or
22 approved by the Department, written agreement by the
23 service recipient's personal support team, and the

1 primary care physician's acknowledgment and specific
2 order related to the task. Under such circumstances,
3 basic nursing care may include, but need not be
4 limited to:

- 5 (1) nutrition, including meals by gastrostomy tube or
6 jejeunostomy tube,
- 7 (2) blood glucose monitoring,
- 8 (3) ostomy bag care,
- 9 (4) oral suctioning, and
- 10 (5) administration of oral metered dose inhalers and
11 nebulizers;

12 2. Supportive assistance, which means the service rendered to
13 persons with developmental disabilities that is sufficient to enable
14 such person to meet an adequate level of daily living. Supportive
15 assistance includes, but is not limited to, training and supervision
16 of persons with developmental disabilities, assistance in
17 housekeeping, assistance in the preparation of meals, and assistance
18 in activities of daily living as necessary for the health and
19 comfort of persons with developmental disabilities; and

20 3. Safe storage and administration of medications by community
21 service workers who have successfully completed competency-based
22 training approved by the Department.

1 C. The Department shall undertake to identify and utilize any
2 and all federal funding which may be available for such services.

3 ~~C.~~ D. The Department is authorized to accept any gift of real
4 or personal property made for the use or benefit of any program or
5 services established pursuant to this section. Such gift may only
6 be utilized for the purpose or purposes for which it is given

7 SECTION 2. AMENDATORY 56 O.S. 2001, Section 1025.1, as
8 amended by Section 1, Chapter 378, O.S.L. 2002 (56 O.S. Supp. 2004,
9 Section 1025.1), is amended to read as follows:

10 Section 1025.1 For the purposes of this chapter:

11 1. "Bureau" means the Oklahoma State Bureau of Investigation;

12 2. "Commission" means the Commission for Human Services;

13 3. "Community services provider" means a community-based
14 program, corporation, or individual who contracts with, or is
15 licensed or funded by, the Department of Human Services to provide
16 residential or vocational services to persons with mental
17 retardation or developmental disabilities, or contracts with the
18 Oklahoma Health Care Authority to provide services to individuals
19 with mental retardation through the Home and Community-Based Waiver,
20 except a private ICF/MR;

21 4. "Community services worker" means any person employed by or
22 under contract with a community services provider who provides, for
23 compensation or as a volunteer, health-related services, training,

1 or supportive assistance to persons with developmental disabilities,
2 and who is not a licensed health professional;

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

4 6. "Developmental disability" means a severe, chronic
5 disability of a person which:

- 6 a. is attributable to a mental or physical impairment or
7 combination of mental and physical impairments, such
8 as mental retardation, cerebral palsy, or autism,
9 b. is manifested before the person attains twenty-two
10 (22) years of age,
11 c. is likely to continue indefinitely,
12 d. results in substantial functional limitations in three
13 or more of the following areas of major life activity:
14 (1) self-care,
15 (2) receptive and expressive language,
16 (3) learning,
17 (4) mobility,
18 (5) self-direction,
19 (6) capacity for independent living, and
20 (7) economic self-sufficiency, and
21 e. reflects the person's need for a combination and
22 sequence of special, interdisciplinary, or generic
23 care, treatment, or other services which are of

1 lifelong or extended duration and are individually
2 planned and coordinated;

3 7. "Health-related services" means those services provided by
4 community services providers or community services workers to
5 persons with developmental disabilities that include, but are not
6 limited to, personal hygiene, transferring, range of motion,
7 supervision or assistance in activities of daily living, basic
8 nursing care such as taking temperature, pulse or respiration,
9 positioning, incontinent care, and identification of signs and
10 symptoms of disease. Certain tasks that may be performed as basic
11 nursing care by community services workers require appropriate
12 training provided or approved by the Department, written agreement
13 by the service recipient's personal support team, and the primary
14 care physician's acknowledgement and specific order related to the
15 task. Under such circumstances, basic nursing care may include, but
16 need not be limited to:

- 17 a. nutrition, including meals by gastrostomy tube or
18 jejeunostomy tube,
19 b. blood glucose monitoring,
20 c. ostomy bag care,
21 d. oral suctioning, and
22 e. administration of oral metered dose inhalers and
23 nebulizers;

1 8. "Supportive assistance" means the service rendered to
2 persons with developmental disabilities which is sufficient to
3 enable such person to meet an adequate level of daily living.
4 Supportive assistance includes, but is not limited to, training,
5 supervision, assistance in housekeeping, assistance in the
6 preparation of meals, and assistance in ~~the safe storage,~~
7 ~~distribution and administration of medications, and assistance in~~
8 activities of daily living as necessary for the health and comfort
9 of persons with developmental disabilities;

10 9. "Personal care" means a level of assistance provided in the
11 home of an individual to meet the individual's activities of daily
12 living needs such as bathing, grooming, meal preparation, light
13 housekeeping, laundry, and care plan-directed errands;

14 10. "Medicaid personal care services provider" means a program,
15 corporation or individual who provides services under the state
16 Medicaid program personal care program or Advantage Waiver to
17 individuals who are elderly or who have a physical disability; and

18 11. "Medicaid personal care assistant" means a person who
19 provides Medicaid services funded under the state Medicaid program
20 personal care program, who is not a certified nurse aide or a
21 licensed professional.

22 SECTION 3. This act shall become effective November 1, 2005.

23 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN RESOURCES, dated
24 2-10-05 - DO PASS, As Amended and Coauthored.