

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 1016

By: Pruitt

AS INTRODUCED

An Act relating to public health and safety; creating the Oklahoma Consumer-Directed Care Act; providing short title; stating Legislative findings and intent; directing the Oklahoma Health Care Authority to establish certain care program and to implement such program upon federal approval; requiring interagency cooperative agreements; providing for enrollment of specified persons; defining terms; providing program parameters and consumer responsibility; specifying roles and responsibilities of agencies and the fiscal intermediary; providing for certain reimbursement; specifying employment criteria for rescreening purposes; providing for promulgation of rules and necessary waiver applications; providing for compliance with federal regulations; requiring program review by agencies; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2559 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Oklahoma Consumer-Directed Care Act".

B. The Legislature finds that:

1. Alternatives to institutional care, such as in-home and community-based care, should be encouraged;

2. Giving recipients of in-home and community-based services, including family and friends, the opportunity to select the services they need and the providers they want enhances their sense of dignity and autonomy; and

3. Providing consumers choice and control, as tested in current research and demonstration projects, has been beneficial and should be developed further and implemented statewide.

C. Recognizing the need to nurture the autonomy of citizens of this state who have disabilities by providing the long-term care services in the least restrictive and appropriate setting possible, the Legislature hereby intends to provide such individuals with more choices in and greater control over the purchased long-term care services they receive.

1. The Oklahoma Health Care Authority is hereby directed to establish a consumer-directed care program which shall be based on the principles of consumer choice and control. The Authority shall implement the program upon federal approval. The Authority shall further establish interagency cooperative agreements with and shall work with the Department of Human Services and the State Department of Health to implement and administer the program. The program shall allow enrolled persons to choose the providers of services and to direct the delivery of services to best meet their long-term care needs. The program shall operate within the funds appropriated by the Legislature.

2. Any person enrolled in the Medicaid home and community-based waiver program, who is able to direct his or her own care, or to designate an eligible representative, may choose to participate in the consumer-directed care program.

D. As used in this section:

1. "Budget allowance" means the amount of money made available each month to a consumer to purchase needed long-term care services, based on the results of a functional needs assessment;

2. "Consultant" means an individual who provides technical assistance to consumers in meeting the consumer's responsibilities under this section;

3. "Consumer" means a person who has chosen to participate in the program, has met the enrollment requirements, and has received an approved budget allowance;

4. "Fiscal intermediary" means an entity approved by the Oklahoma Health Care Authority that helps a consumer manage the consumer's budget allowance, retains the funds, processes employment information, if any, and tax information, reviews records to ensure correctness, writes paychecks to providers, and delivers paychecks to the consumer for distribution to providers and caregivers;

5. "Provider" means:

- a. a person licensed or otherwise permitted to render services eligible for reimbursement under this program for whom the consumer is not the employer of record, or
- b. a consumer-employed caregiver for whom the consumer is the employer of record; and

6. "Representative" means an uncompensated individual designated by the consumer to assist in managing the consumer's budget allowance and needed services.

E. A consumer enrolled in the program shall be given a monthly budget allowance based on the results of his or her assessed functional needs and the financial resources of the program. Such consumer shall receive the budget allowance directly from an Authority-approved fiscal intermediary. Each department shall develop purchasing guidelines, approved by the Authority, to assist a consumer in using the budget allowance to purchase needed, cost-effective services.

F. A consumer shall use the budget allowance only to pay for home- and community-based services that meet the consumer's long-term care needs and are a cost-efficient use of funds. Such services may include, but are not limited to, the following:

1. Personal care;

2. Homemaking and chores, including housework, meals, shopping and transportation;

3. Home modifications and assistive devices which may increase the consumer's independence or make it possible to avoid institutional placement;

4. Assistance in taking self-administered medication;

5. Day care and respite care services provided by nursing home facilities or adult day care facilities; and

6. Personal care and support services provided in an assisted living facility.

G. A consumer shall be allowed to choose the providers of services, as well as when and how the services are provided. A provider may include a consumer's neighbor, friend, spouse, or relative.

1. In cases where a consumer is the employer of record, the consumer's roles and responsibilities include, but are not limited to, the following:

- a. developing a job description,
- b. selecting caregivers and submitting information for a criminal history background check,
- c. communicating needs, preferences and expectations about services being purchased,
- d. providing the fiscal intermediary with all information necessary for provider payments and tax requirements, and
- e. ending the employment of an unsatisfactory caregiver.

2. In cases where a consumer is not the employer of record, the consumer's roles and responsibilities include, but are not limited to, the following:

- a. communicating needs, preferences, and expectations about services being purchased,
- b. ending the services of an unsatisfactory provider, and

- c. providing the fiscal agent with all information necessary for provider payments and tax requirements.

H. The roles and responsibilities of the Authority and the various departments include, but are not limited to, the following:

1. Assessing each consumer's functional needs, helping with the service plan, and providing ongoing assistance with the service plan;
2. Offering the services of consultants who shall provide training, technical assistance, and support to the consumer;
3. Completing the background screening for providers;
4. Approving fiscal intermediaries;
5. Establishing the minimum qualifications for all caregivers and providers; and
6. Serving as the final arbiter of the fitness of any individual to be a caregiver or provider.

I. The fiscal intermediary's roles and responsibilities include, but are not limited to, the following:

1. Providing recordkeeping services; and
2. Retaining the consumer-directed care funds, processing employment and tax information, if any, reviewing records to ensure correctness, writing paychecks to providers, and delivering paychecks to the consumer for distribution.

J. 1. The agency shall, as allowable, reimburse consumer-employed caregivers for the cost of conducting background screening as required by this section.

2. For purposes of this section, a person who has undergone screening, who is qualified for employment under this section and any applicable rule, and who has not been unemployed for more than one hundred eighty (180) days following such screening is not required to be rescreened. Such person shall attest under penalty of perjury to not having been convicted of a disqualifying offense since completing such screening.

K. In order to implement this section:

1. The Oklahoma Health Care Authority Board, the Commission for Human Services and the State Board of Health are hereby authorized to promulgate rules enacting the provisions of this act.

2. The Authority shall take all necessary action to ensure state compliance with federal regulations. The agency shall apply for any necessary federal waivers or waiver amendments needed to implement the program.

L. The Authority, the Department of Human Services and the State Department of Health shall each, on an ongoing basis, review and assess the implementation of the consumer-directed care program. By January 15 of each year, the agency shall submit a written report to the Legislature that includes each agency's review of the program.

SECTION 2. This act shall become effective November 1, 2005.

50-1-1266

CJ

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