

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1814

By: Pruitt

AS INTRODUCED

An Act relating to poor persons; amending 56 O.S. 2001, Section 1010.4, as amended by Section 3, Chapter 464, O.S.L. 2003 (56 O.S. Supp. 2005, Section 1010.4), which relates to implementation of the Oklahoma Medicaid Healthcare Options System by the Oklahoma Health Care Authority; modifying requirements regarding the promulgation of rules establishing competitive bidding criteria and procedures for contracts; amending 74 O.S. 2001, Section 85.45j, which relates to sole source or sole brand acquisitions; providing an exception from stated exemptions for sole source acquisition contracts entered into by the Oklahoma Health Care Authority; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 56 O.S. 2001, Section 1010.4, as amended by Section 3, Chapter 464, O.S.L. 2003 (56 O.S. Supp. 2005, Section 1010.4), is amended to read as follows:

Section 1010.4 A. The Oklahoma Health Care Authority shall take all steps necessary to implement the Oklahoma Medicaid Healthcare Options System as required by the Oklahoma Medicaid Program Reform Act of 2003.

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 providers;

4. Development of a complete plan of accounts and controls for the System including, but not limited to, provisions designed to ensure necessary and reasonable usage of covered health and medical services provided through the System;

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 against the System by members, eligible persons and participating providers;

10. Coordination of benefits provided under the Oklahoma Medicaid Program Reform Act of 2003 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;

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,

c. On or before July 1, 2002, the Oklahoma Health Care Authority shall coordinate with the State Commissioner of Health to develop procedures to implement the program, contingent upon funds becoming available; and

22. Establishment of co-payments, premiums and enrollment fees, and the establishment of policy for those members who do not pay co-payments, premiums or enrollment fees.

C. Except for reinsurance obtained by providers, the Authority shall coordinate benefits provided under the Oklahoma Medicaid Program Reform Act of 2003 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 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 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 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 Oklahoma Health Care Authority Board shall promulgate rules:

1. Establishing appropriate competitive bidding criteria and procedures for contracts, including sole source provider contracts or contracts for sole source acquisitions as defined in the Oklahoma Central Purchasing Act, awarded pursuant to the Oklahoma Medicaid Program Reform Act of 2003;

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 Program Reform Act of 2003. Such rules shall consider the differences between rural and urban conditions on the delivery of hospitalization services, eye care, dental care and medical care.

SECTION 2. AMENDATORY 74 O.S. 2001, Section 85.45j, is amended to read as follows:

Section 85.45j A. 1. Pursuant to the provisions of this section, an acquisition may be exempt from competitive bidding procedures as a sole source or sole brand acquisition. However,

contracts for sole source acquisitions entered into by the Oklahoma Health Care Authority shall not be exempt from competitive bidding procedures.

2. If a state agency desires to make a sole source or sole brand acquisition, the state agency shall retain in the state agency's acquisition file or attach to the requisition an affidavit signed by the chief administrative officer of the state agency, in the following form:

SOLE SOURCE OR SOLE BRAND ACQUISITION

AFFIDAVIT

STATE AGENCY _____
SUPPLIER NAME _____
SUPPLIER ADDRESS _____
SUPPLIER TELEPHONE _____

I hereby affirm that pursuant to the provisions of the attached requisition or contract that

(Name of Supplier)

is the only person or business entity singularly qualified to provide the acquisition, and if a product is the only brand or product which is unique, for the following reasons:

The following is a brief description of all efforts which were made to verify that the services or products to be purchased pursuant to the provisions of the attached requisition or contract qualify as a sole source or sole brand acquisition:

I understand that the signing of this affidavit knowing such information to be false may subject me to punishment for perjury.

(Chief administrative officer)

STATE OF OKLAHOMA)

) ss.

COUNTY OF OKLAHOMA)

Subscribed and sworn to before me this __ day of _____, 20__.

Notary Public

My Commission expires:

3. A court order requiring the purchase of specific products or services but which does not specify a brand or supplier shall not substitute for the affidavit required by this subsection or otherwise invalidate the acquisition procedures required pursuant to the Oklahoma Central Purchasing Act.

4. Any chief administrative officer of a state agency affirming the affidavit required by this subsection who knows the information to be false shall be deemed guilty of perjury and upon conviction shall be punished by fine or by imprisonment or both fine and imprisonment pursuant to law. Upon conviction or upon entering a plea of nolo contendere pursuant to this paragraph, the chief administrative officer shall immediately forfeit his or her position and shall be ineligible for appointment to or employment in the state service for a period of five (5) years after entering a plea of nolo contendere or being convicted.

5. Upon a determination by the Director of the Department of Central Services that there are reasonable grounds to believe that a violation of this subsection has occurred, the Director shall send

findings to the Attorney General that support the determination. The Attorney General shall review the findings and determine whether to investigate or prosecute the person.

6. If the acquisition's purchase price is such that the state agency is required to submit a requisition to the State Purchasing Director, the State Purchasing Director shall approve or deny the requisition for a sole source or sole brand acquisition. Prior to approving a requisition pursuant to this paragraph, the State Purchasing Director shall document reasons a sole source or sole brand purchase is necessary and shall retain a written record for three (3) fiscal years following the end of the fiscal year during which the sole source or sole brand acquisition was made.

7. For sole source or sole brand acquisitions exceeding Two Thousand Five Hundred Dollars (\$2,500.00) and not requiring submission of a requisition to the State Purchasing Director, the state agency's certified procurement officer shall document reasons a sole source or sole brand acquisition is necessary and shall retain a written record for three (3) fiscal years following the end of the fiscal year during which the sole source or sole brand acquisition was made.

8. The chief administrative officer of each state agency shall submit to the State Purchasing Director a monthly listing of all sole source and sole brand acquisitions exceeding Two Thousand Five Hundred Dollars (\$2,500.00) executed by the state agency in the preceding month. The report shall indicate whether requisitions for sole source and sole brand acquisitions were disapproved or modified by the State Purchasing Director and information the State Purchasing Director requires.

9. The State Purchasing Director shall electronically provide to the Office of State Finance the information received pursuant to paragraph 8 of this subsection in machine-readable format and in the form the Office of State Finance requires.

B. By the fifteenth day of each month, or the first working day thereafter, the Office of State Finance shall provide a report from the information received pursuant to this section to:

1. The Speaker of the House of Representatives and the President Pro Tempore of the Senate;

2. The Majority and Minority Leaders of both the House of Representatives and the Senate;

3. The Chair and Vice Chair of the Appropriations and Budget Committee of the House of Representatives and the Appropriations Committee of the Senate; and

4. Any member of the Legislature requesting the report.

The report shall detail all sole source and sole brand acquisitions by state agencies for the month prior to the month preceding the submission of the report. The report shall be titled "Monthly Sole Source and Sole Brand Contracting Report of Oklahoma State Agencies" and indicate the time period of the report. The report shall be provided in physical form unless the requesting person specifies the electronic version. The report shall be signed by the Director of State Finance or the Director's designee. The report shall be in columnar database format and shall include at least the following fields of information: state agency number; state agency name; date created by the Department of Central Services for the requisition; date of either approval or disapproval of the requisition; if disapproved, the reason why such contract was disapproved; estimated amount of the requisition; purchase order amount; purchase order number; actual business name of supplier; supplier federal employer identification number; contact person; and the commodity classification listing at the appropriate level to distinguish between similar acquisitions. Information required by this subsection shall be reported and maintained on each report through the next reporting period after an acquisition is made. The applicable data in the fields of information specified in this

subsection shall be listed even if the state agency requisition is disapproved.

C. The Office of State Finance shall maintain electronic historic data or any other data received pursuant to this section for at least two (2) years.

D. By August 15 of each year, from the data received pursuant to this section, the Office of State Finance shall complete and submit a report detailing the number of sole source or sole brand contracts issued by each state agency and a list of the business names of the suppliers who received sole source or sole brand awards during the previous fiscal year and if more than one such award, the number of awards so executed.

SECTION 3. This act shall become effective July 1, 2006.

SECTION 4. 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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