

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 2713

By: Billy, Brown, Hilliard,
McDaniel (Jeannie),
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the House

7 and

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9

10
11 CONFERENCE COMMITTEE SUBSTITUTE

12 An Act relating to Medicaid coverage; amending 56
13 O.S. 2001, Section 1010.1, as last amended by Section
14 27 of Enrolled Senate Bill No. 1830 of the 2nd
15 Session of the 51st Oklahoma Legislature, which
16 relates to the Oklahoma Medicaid Program Reform Act
17 of 2003; exempting certain persons from qualifying
18 employer requirement; providing for eligibility for
19 premium assistance program for certain persons if
20 funding permits; amending Sections 2 and 3, Chapter
21 315, O.S.L. 2006 (56 O.S. Supp. 2007, Sections 1011.2
22 and 1011.3), which relate to the Oklahoma Medicaid
23 Reform Act of 2006; defining terms; extending date of
24 pilot program implementation; eliminating
geographical restriction; authorizing contract with
certain provider; stating purpose of program;
authorizing the use of clinical judgment to deviate
from program guidelines; providing financial reward
for responsiveness; providing for Internet
application of program; specifying time for
analyzation of data to determine effectiveness;
modifying purpose; providing for feasibility study;
providing for an opt-out option in current Medicaid
program to purchase employer-sponsored insurance;
clarifying certain procedure; providing for voucher;

1 deleting collaboration requirement for determination
2 of standards for commercial insurers; deleting
3 redundant language; clarifying cost-sharing
4 requirements; and providing an effective date.

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

6 SECTION 1. AMENDATORY 56 O.S. 2001, Section 1010.1, as
7 last amended by Section 27 of Enrolled Senate Bill No. 1830 of the
8 2nd Session of the 51st Oklahoma Legislature, is amended to read as
9 follows:

10 Section 1010.1 A. Sections 1010.1 through 1010.7 of this title
11 shall be known and may be cited as the "Oklahoma Medicaid Program
12 Reform Act of 2003".

13 B. Recognizing that many Oklahomans do not have health care
14 benefits or health care coverage, that many small businesses cannot
15 afford to provide health care benefits to their employees, and that,
16 under federal law, barriers exist to providing Medicaid benefits to
17 the uninsured, the Oklahoma Legislature hereby establishes
18 provisions to lower the number of uninsured, assist businesses in
19 their ability to afford health care benefits and coverage for their
20 employees, and eliminate barriers to providing health coverage to
21 eligible enrollees under federal law.

22 C. Unless otherwise provided by law, the Oklahoma Health Care
23 Authority shall provide coverage under the state Medicaid program to
24 children under the age of eighteen (18) years whose family incomes

1 do not exceed one hundred eighty-five percent (185%) of the federal
2 poverty level.

3 D. 1. The Authority is directed to apply for a waiver or
4 waivers to the Centers for Medicaid and Medicare Services (CMS) that
5 will accomplish the purposes outlined in subsection B of this
6 section. The Authority is further directed to negotiate with CMS to
7 include in the waiver authority provisions to:

- 8 a. increase access to health care for Oklahomans,
- 9 b. reform the Oklahoma Medicaid Program to promote
10 personal responsibility for health care services and
11 appropriate utilization of health care benefits
12 through the use of public-private cost sharing,
- 13 c. enable small employers, and/or employed, uninsured
14 adults with or without children to purchase employer-
15 sponsored, state-approved private, or state-sponsored
16 health care coverage through a state premium
17 assistance payment plan. If by January 1, 2012, the
18 Employer/Employee Partnership for Insurance Coverage
19 Premium Assistance Program is not consuming more than
20 seventy-five percent (75%) of its dedicated source of
21 funding, then the program will be expanded to include
22 parents of children eligible for Medicaid, and
- 23 d. develop flexible health care benefit packages based
24 upon patient need and cost.

1 2. The Authority may phase in any waiver or waivers it receives
2 based upon available funding.

3 3. The Authority is authorized to develop and implement a
4 premium assistance plan to assist small businesses and/or their
5 eligible employees to purchase employer-sponsored insurance or "buy-
6 in" to a state-sponsored benefit plan.

7 4. The Authority is authorized to seek from the Centers for
8 Medicare and Medicaid Services any waivers or amendments to existing
9 waivers necessary to accomplish an expansion of the premium
10 assistance program to include employers with two hundred fifty
11 employees or less up to any level supported by existing funding
12 resources. Foster parents employed by employers with greater than
13 two hundred fifty employees shall be exempt from the qualifying
14 employer requirement provided for in this paragraph and shall be
15 eligible to qualify for the premium assistance program provided for
16 in this section if supported by existing funding.

17 5. The Authority is authorized to seek from the Centers for
18 Medicare and Medicaid Services any waivers or amendments to existing
19 waivers necessary to accomplish an extension of the premium
20 assistance program to include qualified employees whose family
21 income does not exceed two hundred fifty percent (250%) of the
22 federal poverty level, subject to the limit of federal financial
23 participation.

1 E. 1. There is hereby created in the State Treasury a
2 revolving fund to be designated the "Health Employee and Economy
3 Improvement Act (HEEIA) Revolving Fund".

4 2. The fund shall be a continuing fund, not subject to fiscal
5 year limitations, and shall consist of:

- 6 a. all monies received by the Authority pursuant to this
7 section and otherwise specified or authorized by law,
- 8 b. monies received by the Authority due to federal
9 financial participation pursuant to Title XIX of the
10 Social Security Act, and
- 11 c. interest attributable to investment of money in the
12 fund.

13 3. All monies accruing to the credit of the fund are hereby
14 appropriated and shall be budgeted and expended by the Authority to
15 implement a premium assistance plan, unless otherwise provided by
16 law.

17 SECTION 2. AMENDATORY Section 2, Chapter 315, O.S.L.
18 2006 (56 O.S. Supp. 2007, Section 1011.2), is amended to read as
19 follows:

20 Section 1011.2 A. The Oklahoma Health Care Authority is
21 authorized to seek waivers and/or other federal authorizations to
22 create a statewide program to provide for a more efficient and
23 effective service delivery system that enhances quality of care and
24 client outcomes in the Oklahoma Medicaid Program.

1 B. The Oklahoma Health Care Authority shall develop and submit
2 for approval, applications for waivers of applicable federal laws
3 and regulations as necessary to implement the provisions of the
4 Oklahoma Medicaid Reform Act of 2006. Copies of all waivers
5 submitted to and approved by the United States Centers for Medicare
6 and Medicaid Services under this section shall be provided to the
7 Legislature within ten (10) days of their approval. The Oklahoma
8 Health Care Authority shall submit a plan containing a recommended
9 timeline for implementation of any waivers and budgetary projections
10 of the effect of the Oklahoma Medicaid Reform Act of 2006. This
11 implementation plan shall be submitted to the Governor, the Speaker
12 of the House of Representatives and the President Pro Tempore of the
13 Senate.

14 C. 1. For the purposes of this subsection:

15 a. "rural" means outside the corporate limits of any
16 municipal corporation and includes open country,
17 unincorporated communities, and any municipality
18 having a population of ten thousand (10,000) or less
19 according to the latest Federal Decennial Census, and

20 b. "urban" means any area which is not rural.

21 2. By July 1, ~~2008~~ 2010, phase one of this act shall be
22 implemented within ~~a contiguous~~ an area of the state with rural and
23 urban characteristics. The Oklahoma Health Care Authority shall
24 contract for an independent evaluation and report findings of this

1 phase of the act to the Governor and the Legislature. After an
2 independent evaluation and report to the Governor and Legislature,
3 if it is determined that the evaluation establishes improved access
4 to health care, improved health care outcomes, and improved cost
5 efficiencies, it is the intent of the Legislature that components of
6 the act be phased in statewide ~~by the year 2013~~.

7 D. Upon this evaluation and determination of improvement by the
8 Governor and Legislature, the Oklahoma Health Care Authority shall
9 negotiate a plan for statewide expansion of the act from the Centers
10 for Medicare and Medicaid Services.

11 E. The Oklahoma Health Care Authority may contract with a pay-
12 for-performance program provider. The purpose of the program is to
13 test a program's value proposition that offers financial incentives
14 to both the health care provider and the patient for incorporating
15 evidence-based medicine guidelines and information therapy
16 prescriptions in the rendering and utilizing of health care. This
17 program may offer the health care provider the flexibility to use
18 the health care provider's clinical judgment to adhere to or deviate
19 from the program's guidelines and still receive a financial
20 incentive as long as the health care provider prescribes information
21 therapy to the patient. The program shall offer a financial reward
22 to the patient for responding to the information therapy
23 prescription by demonstrating the patient's understanding of the
24 patient's health condition, by demonstrating adherence to

1 recommended care, and by judging the quality of care given to the
2 patient against these guidelines. The program shall be offered and
3 administered through an Internet application. This demonstration
4 project shall collect and analyze data over a period of two (2)
5 years or other reasonable time frame in order to determine its
6 effectiveness.

7 F. The purpose of the Oklahoma Medicaid Reform Act of 2006 is
8 to:

9 1. ~~Provide Medicaid consumers who are younger than sixty five~~
10 ~~(65) years of age and considered insurable more options in the~~
11 ~~selection of a health care plan that meets the needs of consumers~~
12 ~~and allows consumers to exercise greater control over the medical~~
13 ~~care that consumers receive. For purposes of this section~~
14 ~~"insurable" means that the cost of enrolling an individual in a~~
15 ~~private plan is equal to or less than the cost to the state of the~~
16 ~~individual remaining in the current Medicaid program;~~

17 2. Stabilize Medicaid expenditures in the act areas compared to
18 Medicaid expenditures in the test areas for the three (3) years
19 preceding implementation of the act, while ensuring:

- 20 a. consumer education and choice,
21 b. access to medically necessary services,
22 c. coordination of preventative, acute, and long-term
23 care services, and
24 d. reductions in unnecessary service utilization;

1 ~~3.~~ 2. Provide an opportunity to evaluate the progress of
2 statewide implementation of the Oklahoma Medicaid Reform Act of 2006
3 as a replacement for the current Medicaid system; and

4 ~~4.~~ 3. Introduce competition as a factor that lowers the cost of
5 the act.

6 SECTION 3. AMENDATORY Section 3, Chapter 315, O.S.L.
7 2006 (56 O.S. Supp. 2007, Section 1011.3), is amended to read as
8 follows:

9 Section 1011.3 A. The Oklahoma Health Care Authority shall
10 have the following powers, duties, and responsibilities with respect
11 to the development of the program established in Section ~~2~~ 1011.2 of
12 this ~~act~~ title:

13 1. The consumer education component shall include the
14 following:

15 a. to develop a choice counseling system to ensure that
16 the choice counseling process and related material are
17 designed to provide consumers an understanding of both
18 public and private health insurance options provided
19 by this act including incentives through face-to-face
20 interaction, by telephone, and in writing, and through
21 other forms of relevant media,

22 b. to develop a system to ensure that there is record of
23 recipient acknowledgment that choice counseling has
24 been provided, and

1 c. to develop a choice counseling system that promotes
2 health literacy and includes an educational component
3 that is intended to promote proper utilization of the
4 health care system;

5 2. The consumer choice component shall include a comprehensive
6 feasibility study to allow individuals more choices in their health
7 care coverage including, but not limited to, employer-sponsored
8 insurance options, and may include the following:

9 a. to develop a system to enable ~~insurable~~ Medicaid
10 consumers to opt out of their current Medicaid program
11 and purchase health care coverage through their
12 employer-sponsored health insurance plan or access
13 commercial health insurance policies for their
14 eligible family members,

15 b. to develop an actuarially sound average cost per
16 Medicaid consumer ~~within different age groups and~~
17 ~~other relevant categories including health status~~ to
18 provide medically necessary services ~~which may be~~
19 ~~separated to cover comprehensive care, enhanced~~
20 ~~services, and catastrophic care. This cost would be~~
21 ~~converted into a credit or instrument of value for the~~
22 ~~Medicaid consumer to purchase qualified health~~
23 ~~insurance policies. This value shall be used for a~~
24 voucher system to subsidize Medicaid consumers'

1 premium costs for their employer-sponsored or
2 commercial health insurance option,

3 ~~c. in conjunction with the Oklahoma Insurance Department,~~
4 ~~to determine benefits and standards for commercial~~
5 ~~insurers accessed by Medicaid consumers,~~

6 ~~d. to allow consumers to purchase health care coverage~~
7 ~~through an employer-sponsored health insurance plan~~
8 ~~instead of through a qualified health insurance plan.~~

9 ~~This provision shall be known as the employee choice~~
10 ~~option. A recipient who chooses the Medicaid employee~~
11 ~~choice option shall have an opportunity for a~~
12 ~~specified period of time, as authorized by the Centers~~
13 ~~for Medicare and Medicaid Services, to select and~~
14 ~~enroll in a qualified health insurance plan,~~

15 ~~e. to develop a process for Medicaid consumers to select~~
16 commercial health insurance options, the Oklahoma
17 Health Care Authority ~~shall~~ may develop a plan to
18 implement a personal health account system as an
19 enhanced benefit. Monies deposited into a personal
20 health account shall only be used by the recipient to
21 defray health-care-related costs including, but not
22 limited to, copayments, noncovered benefits, and
23 wellness initiatives. The Health Care Authority shall

1 promulgate rules guiding personal health account
2 transactions; and

3 3. To provide a grievance-resolution process for Medicaid
4 consumers enrolled in a health plan. This process shall include a
5 mechanism for an expedited review of a grievance if the life of a
6 Medicaid recipient is in imminent and emergent jeopardy; and

7 4. To provide a grievance-resolution process for health care
8 providers employed by or contracted with a health plan to settle
9 disputes among the provider and the health plan or the provider and
10 the Oklahoma Health Care Authority.

11 ~~5. By July 1, 2008, the Oklahoma Health Care Authority shall~~
12 ~~institute cost sharing methods and/or benefit modifications within~~
13 ~~federal limitations to eligible persons whose family income is~~
14 ~~between one hundred thirty three percent (133%) and one hundred~~
15 ~~eighty five percent (185%) of the federal poverty level. The~~
16 ~~benefits shall be no less than the state sponsored health care~~
17 ~~coverage through the state premium assistance program authorized in~~
18 ~~subsection D of Section 1010.1 of Title 56 of the Oklahoma Statutes~~

19 B. Medicaid consumers electing to opt out of the current
20 program shall be subject to cost-sharing requirements, preexisting-
21 condition clauses and the possibility of different benefits of their
22 employer-sponsored insurance or selected commercial health care
23 provider. The consumer shall also be responsible to pay for any
24 cost differential between the state subsidy and their premium cost

1 should their premium cost be higher. If the cost is lower than the
2 state subsidy, then the difference may be placed into a personal
3 health account.

4 ~~6.~~ C. Notwithstanding any other provision of this section,
5 coverage, cost sharing, and any other component of employer-
6 sponsored health insurance shall be governed by applicable state and
7 federal laws.

8 ~~7.~~ D. The Oklahoma Health Care Authority shall develop a system
9 to ensure that the implementation of the provisions of this act do
10 not negatively affect the ability of American Indian or Alaska
11 Native beneficiaries to access services at Indian Health Service
12 facilities, tribally operated health facilities and Urban Indian
13 Health Programs.

14 ~~8.~~ E. The Oklahoma Health Care Authority shall develop a system
15 to ensure that the implementation of the provisions of this act do
16 not negatively affect the reimbursement structure between the
17 Oklahoma Health Care Authority and the Indian Health Service
18 facilities, tribally operated health facilities and urban health
19 programs.

20 ~~9.~~ F. The Oklahoma Health Care Authority shall develop
21 mechanisms through intergovernmental transfers which will allow
22 tribally operated facilities that elect to provide services to
23 beneficiaries other than American Indian or Alaska Native
24 beneficiaries to receive reimbursement for such services.

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SECTION 4. This act shall become effective November 1, 2008.

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