

1 ENGROSSED HOUSE
2 BILL NO. 2828

By: Peters, Johnson, Watson and
McDaniel (Jeannie) of the
House

3
4 and

Bingman of the Senate

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8 An Act relating to public health and safety; defining
9 terms; requiring certain information be reported to
10 the Oklahoma Health Care Authority; requiring
11 Authority to provide certain forms; providing that
12 certain payment shall be an allowable Medicaid cost;
13 creating Home-Based Quality Assurance Fund;
14 specifying fund shall be continuing; providing fund
15 shall not be subject to certain fiscal limitations;
16 providing for sources of funding; specifying that
17 fund monies may be budgeted and expended by Authority
18 for certain services; requiring expenditures be made
19 upon certain warrants; specifying that fund and
20 certain programs shall not be subject to budget cuts
21 or other reductions; providing that reimbursement
22 rate shall be consistent with certain methodology;
23 specifying that certain providers shall not be
24 guaranteed that certain cost reimbursements shall
equal or exceed amount of certain assessment;
specifying that certain assessment shall be void if
certain federal matching expenditures are
unavailable; providing that certain assessment shall
be void if certain court invalidates section;
providing for the return of assessment within a
certain time period in the event of certain
invalidation; specifying that if a court of last
resort determines certain provision prevents state
from obtaining certain funds that provision shall be
void; specifying severability of invalidated
provisions; specifying exceptions to applicability of
section; requiring Authority to promulgate certain
rules and provide for certain penalties; defining
terms; requiring Authority to assess certain
providers annually; specifying formula for the

1 evaluation of certain assessments; specifying that
2 certain assessment shall not be increased without
3 legislative authorization; providing for
4 codification; and providing an effective date.

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

6 SECTION 1. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2004 of Title 56, unless there
8 is created a duplication in numbering, reads as follows:

9 A. As used in this section:

10 1. "Additional costs reimbursed to the contracted community-
11 based service provider" means both state and federal Medicaid
12 expenditures in excess of the aggregate amounts that would otherwise
13 have been paid to a contracted community-based service provider
14 including, but not limited to, costs related to an audit required by
15 the Department of Human Services, the Oklahoma Health Care
16 Authority, or the State Auditor and Inspector;

17 2. "Contracted community-based service provider" means any
18 entity contracted by the Department of Human Services, the Oklahoma
19 Health Care Authority, or any private person providing the support,
20 or promotion of support, for a service recipient to remain in such
21 person's home or residence and shall include, but not be limited to,
22 entities and persons providing personal support, professional
23 support, case management, transportation services, and services

1 through a Home and Community-Based Waiver or Advantage Waiver as
2 defined by Title XIX of the Social Security Act, Section 1915 (C);

3 3. "Gross receipts" means annual gross revenues received in
4 compensation for services rendered by a contracted community-based
5 service provider, but shall not include any amount received by a
6 contracted service provider as a charitable contribution or any
7 amount received by a provider as compensation for services rendered
8 that is not reimbursed; and

9 4. "Medicaid" means the medical assistance program established
10 in Title XIX of the federal Social Security Act and administered in
11 the state by the Oklahoma Health Care Authority.

12 B. Information required to calculate the Home-Based Support
13 Quality Assurance Assessment provided in Section 2 of this act for a
14 contracted community-based service provider shall be reported to the
15 Oklahoma Health Care Authority using forms supplied by the Oklahoma
16 Health Care Authority.

17 C. The payment of the Home-Based Quality Assurance Assessment
18 by contracted community-based service providers shall be an
19 allowable cost for Medicaid reimbursement purposes.

20 D. 1. There is hereby created in the State Treasury a
21 revolving fund for the Oklahoma Health Care Authority to be
22 designated the "Home-Based Quality Assurance Fund".

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

- a. all monies received by the Oklahoma Health Care Authority pursuant to Section 2 of this act and otherwise specified or authorized by law,
- b. monies received by the Oklahoma Health Care Authority due to federal financial participation pursuant to Title XIX of the Social Security Act, and
- c. interest attributable to investment of money in the Home-Based Quality Assurance Fund.

3. All monies accruing to the credit of the fund are appropriated and may be budgeted and expended by the Oklahoma Health Care Authority for Medicaid services provided by contracted community-based service providers.

4. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

5. The Home-Based Quality Assurance Fund and the programs specified in this section that are funded by revenues collected from the Home-Based Quality Assurance Assessment pursuant to this section are exempt from budgetary cuts, reductions, or eliminations.

6. The reimbursement rate for contracted community-based service providers shall be made in accordance with Oklahoma's Medicaid reimbursement rate methodology and the provisions of this section.

1 7. No contracted community-based service provider shall be
2 guaranteed, expressly or otherwise, that any additional costs
3 reimbursed to the contracted community-based service provider shall
4 equal or exceed the amount of the Home-Based Quality Assurance
5 Assessment paid by the contracted community-based service provider.

6 E. 1. If federal financial participation pursuant to Title XIX
7 of the Social Security Act is not available to the Oklahoma Medicaid
8 program, for purposes of matching expenditures from the Home-Based
9 Quality Assurance Fund at the approved federal medical assistance
10 percentage for the applicable fiscal year, the Home-Based Quality
11 Assurance Assessment shall be null and void as of the date of the
12 nonavailability of such federal funding, through and during any
13 period of nonavailability.

14 2. If this section is invalidated by any court of last resort
15 under circumstances not covered in subsection F of this section, the
16 Home-Based Quality Assurance Assessment shall be void as of the
17 effective date of that invalidation.

18 3. If the Home-Based Quality Assurance Assessment is determined
19 to be void for any of the reasons enumerated in this section, any
20 Home-Based Quality Assurance Assessment assessed and collected for
21 any periods after such invalidation shall be returned in full within
22 sixty (60) days by the Oklahoma Health Care Authority to the
23 contracted community-based service provider from which it was
24 collected.

1 4. If any provision of this section, or the application
2 thereof, is determined by any court of last resort to prevent the
3 state from obtaining federal financial participation in the state
4 Medicaid program, such provision shall be deemed void as of the date
5 of the nonavailability of such federal funding and through and
6 during any period of nonavailability.

7 F. 1. If any provision of this section or the application
8 thereof shall be adjudged to be invalid by any court of last resort,
9 such judgment shall not affect, impair or invalidate the remaining
10 provisions of the section, but shall be confined in its operation to
11 the provision thereof directly involved in the controversy in which
12 such judgment was rendered. The applicability of such provision to
13 other persons or circumstances shall not be affected thereby.

14 2. This subsection shall not apply to any judgment that affects
15 the rate of the Home-Based Quality Assurance Assessment, its
16 applicability to all contracted community-based service providers in
17 the state, the usage of the fee for the purposes prescribed in this
18 section, or the ability of the Oklahoma Health Care Authority to
19 obtain full federal participation to match its expenditures of the
20 proceeds of the assessment.

21 G. The Oklahoma Health Care Authority shall:

22 1. Promulgate rules for the implementation and enforcement of
23 the Home-Based Quality Assurance Assessment established by this
24 section; and

1 2. Provide for administrative penalties in the event a
2 contracted community-based service provider fails to:

- 3 a. submit the Home-Based Quality Assurance Assessment,
- 4 b. submit the Home-Based Quality Assurance Assessment in
5 a timely manner, or
- 6 c. submit reports as required by this section or by the
7 Oklahoma Health Care Authority.

8 SECTION 2. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 4002 of Title 68, unless there
10 is created a duplication in numbering, reads as follows:

11 A. As used in this section:

12 1. "Contracted community-based service provider" means any
13 entity contracted by the Department of Human Services, the Oklahoma
14 Health Care Authority, or any private person providing the support,
15 or promotion of support, for a service recipient to remain in such
16 person's home or residence and shall include, but not be limited to,
17 entities and persons providing personal support, professional
18 support, case management, and transportation services, and services
19 through a Home and Community-Based Waiver or Advantage Waiver as
20 defined by Title XIX of the Social Security Act, Section 1915 (C);
21 and

22 2. "Gross receipts" means annual gross revenues received in
23 compensation for services rendered by a contracted community-based
24 service provider, but shall not include any amount received by a

1 contracted service provider as a charitable contribution or any
2 amount received by a provider as compensation for services rendered
3 that is not reimbursed;

4 B. 1. For the purpose of providing quality care enhancements,
5 the Oklahoma Health Care Authority is authorized to and shall
6 annually assess a Home-Based Support Quality Assurance Assessment
7 pursuant to this section on each contracted community-based service
8 provider in this state. Quality of care enhancements include, but
9 are not limited to, the purposes specified in Section 1 of this act.

10 2. The Home-Based Support Quality Assurance Assessment assessed
11 on a contracted community-based service provider shall be calculated
12 by the Oklahoma Health Care Authority by multiplying the total
13 annual Medicaid gross receipts for the provision of all services
14 rendered in this state by the contracted community-based service
15 provider by five and one-half percent (5.5%), regardless of whether
16 such Medicaid receipts are based on days or hours of service, the
17 cost of services rendered, or some other basis. The Home-Based
18 Support Quality Assurance Assessment shall not be increased unless
19 specifically authorized by the Legislature.

20 SECTION 3. This act shall become effective November 1, 2010.

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