

05/13/2011 10:07:47 AM

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB1363

By: Peters of the House and Jolley of the Senate

Title: Poor persons; creating the Oklahoma Choices for Long-Term Care Act.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its Amendment No. 1 and that the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

HOUSE CONFEREES

Billy

~~WAS~~

Cox

Douglas G Cox M.P.

Derby

Enns

Fourkiller

Will Fourkiller

Kern

Saeed Kern

McAffrey

John G 977

Nelson

Peterson

Pam Peterson

Pruett

R. Pruet

Roberts (Sean)

Sanders

Mike Sanders

Scott

HB1363 CCR A

SENATE CONFEREES

Ballenger	_____
Branan	_____
Brinkley	<i>LeBray</i>
Burrage	<i>Sean Burrage</i>
Crain	_____
Ford	<i>James Ford</i>
Halligan	<i>John Halligan</i>
Ivester	<i>[Signature]</i>
Jolley	<i>[Signature]</i>
Justice	<i>[Signature]</i>
Marlatt	<i>[Signature]</i>
Mazzei	<i>[Signature]</i>
Myers	<i>[Signature]</i>
Newberry	<i>[Signature]</i>
Nichols	<i>[Signature]</i>
Paddack	_____
Rice	_____
Stanislowski	<i>[Signature]</i>
Sykes	_____
Wilson	_____
Wyrick	_____

House Action _____ Date _____ Senate Action _____

House Action _____ Date _____ Senate Action _____ Date _____

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Brinkley _____
Burrage _____
Crain _____
Ford _____
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Mazzei _____
Myers _____
Newberry _____
Nichols _____
Paddack _____
Rice _____
Stanislowski _____
Sykes _____
Wilson _____
Wyrick _____

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 1363

By: Peters, McDaniel (Jeannie),
Newell, Cockroft and
Christian of the House

7 and

8 Jolley and Allen of the
9 Senate

10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to poor persons; creating the
12 Oklahoma Choices for Long-Term Care Act; stating
13 purpose; making legislative findings; stating
14 eligibility for the ADvantage Waiver Program;
15 directing Oklahoma Health Care Authority to create a
16 system of eligibility for home- and community-based
17 services; directing Department of Human Services to
18 make certain changes in regulations; directing
19 Authority to submit applications for waivers by
20 certain date; providing that copies of waivers be
21 provided to certain individuals; requiring authority
22 to implement waivers within certain time period;
23 requiring Authority to include certain information in
24 annual report; requiring development of certain
request for proposal for administrative agent
services of certain program by certain date;
providing specifications of request for proposal;
providing for nondiscrimination; providing for
selection criteria; permitting state employees to
submit bid; providing procedure for bids; authorizing
Authority to promulgate certain rules; providing for
codification; and providing an effective date.

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

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 1017.1 of Title 56, unless there
4 is created a duplication in numbering, reads as follows:

5 A. Sections 1 through 5 of this act shall be known and may be
6 cited as the "Oklahoma Choices for Long-Term Care Act".

7 B. The purpose of the Oklahoma Choices for Long-Term Care Act
8 is to make long-term services and supports for citizens easily
9 accessible, cost-effective and of high quality and to provide a
10 comprehensive and systematic approach to addressing these needs.
11 The Oklahoma Choices for Long-Term Care Act shall provide older
12 Oklahomans and adults with physical disabilities the opportunity to
13 choose where they live and receive their services, and provide
14 efficient administration of the ADvantage Waiver Program.

15 SECTION 2. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1017.2 of Title 56, unless there
17 is created a duplication in numbering, reads as follows:

18 The Legislature finds that:

19 1. Oklahoma has a successful home- and community-based services
20 program known as the ADvantage Waiver Program for the frail, elderly
21 and adults with physical disabilities age twenty-one (21) and over
22 who do not have mental retardation nor a cognitive impairment. The
23 ADvantage Waiver Program provides the following services: case
24 management, transitional case management, personal care, advanced

1 supportive/restorative, skilled nursing - home health setting, RN
2 assessment evaluation, occupational therapy, physical therapy,
3 respiratory therapy, speech/language therapy, adult day health,
4 personal care in adult day health, therapy in adult day health,
5 home-delivered meals, NF extended respite, in-home respite, in-home
6 extended respite, environmental modifications, hospice, consumer-
7 directed personal care assistant services and supports, assisted
8 living, and specialized medical equipment and supplies;

9 2. Many Oklahomans who could safely stay at home with cost-
10 effective home- and community-based services go into nursing
11 facilities the day assistance is needed because their eligibility
12 for nursing facility supports is "presumed" by the nursing facility,
13 while eligibility for home and community supports can take weeks or
14 months. If their circumstances are such that they need immediate or
15 urgent care, they lose their choice to live and receive their
16 services at home. Once they are in a nursing facility, they may
17 lose their home or the supports they need to stay at home; and

18 3. The cost of serving Oklahomans who are in nursing facilities
19 when they could be living and receiving services at home is
20 significantly higher than the cost of serving them with home- and
21 community-based services.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1017.3 of Title 56, unless there
24 is created a duplication in numbering, reads as follows:

1 To be eligible for the ADvantage Waiver Program, a person shall:

2 1. Qualify financially for Medicaid;

3 2. Be sixty-five (65) years of age or older or be a physically
4 disabled adult as determined by the Social Security Administration,
5 age twenty-one (21) years or older without mental retardation or
6 cognitive impairment;

7 3. Be determined to meet the nursing facility institutional
8 level of care by the Aging Services Division of the Department of
9 Human Services;

10 4. Reside in his or her own home or a family member's home; and

11 5. Have needs that can be safely met with waiver services and
12 family or community supports.

13 SECTION 4. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1017.4 of Title 56, unless there
15 is created a duplication in numbering, reads as follows:

16 A. The Oklahoma Health Care Authority is directed to create a
17 system of enrollment, Medicaid eligibility, and certification for
18 home- and community-based services provided by the ADvantage Waiver
19 Program that provides for presumptive Medicaid eligibility and
20 certification that is the same as that which exists for nursing
21 facilities as provided for in administrative rules promulgated by
22 the Oklahoma Health Care Authority Board. The system shall
23 facilitate the provision of home- and community-based services to
24 persons at risk of placement in a nursing facility but who elect to

1 be served in a home- and community-based setting in lieu of nursing
2 facility services.

3 B. The Department of Human Services is directed to make such
4 changes in its regulations, policies and procedures as are necessary
5 to implement the enrollment, Medicaid eligibility, and certification
6 requirements established pursuant to subsection A of this section.

7 C. The Oklahoma Health Care Authority shall develop and submit
8 for approval no later than November 1, 2011, applications for
9 waivers or amendments to waivers of applicable federal laws and
10 regulations as necessary to implement the provisions of the Oklahoma
11 Choices for Long-Term Care Act. Copies of all waivers submitted to
12 the United States Centers for Medicare and Medicaid Services shall
13 be provided to the Governor, the Speaker of the Oklahoma House of
14 Representatives and the President Pro Tempore of the Oklahoma State
15 Senate within ten (10) days of their submissions. Waivers and
16 amendments to waivers approved by the United States Centers for
17 Medicare and Medicaid Services as provided in this section shall be
18 provided to the Governor, the Speaker of the Oklahoma House of
19 Representatives and the President Pro Tempore of the Oklahoma State
20 Senate within ten (10) days of their approval. The Oklahoma Health
21 Care Authority shall implement any waivers and amendments to waivers
22 approved by the United States Centers for Medicare and Medicaid
23 Services no later than January 1, 2012, or within sixty (60) days of
24 their approval. The Oklahoma Health Care Authority shall report the

1 savings as the result of the Oklahoma Choices for Long-Term Care Act
2 each year in its annual report.

3 SECTION 5. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1017.5 of Title 56, unless there
5 is created a duplication in numbering, reads as follows:

6 A. On or before January 1, 2012, the Oklahoma Health Care
7 Authority shall initiate a Request for Proposal (RFP) which shall
8 outline specific expectations and requirements of suppliers to
9 competitively bid on administrative agent services for the ADvantage
10 Waiver Program. The RFP shall comply with all requirements of The
11 Oklahoma Central Purchasing Act related to state procurement.

12 The RFP shall:

- 13 1. Require outsourcing of administrative agent services for a
14 period of one (1) year;
- 15 2. Outline minimum requirements;
- 16 3. Direct the Oklahoma Central Purchasing Office to award a
17 contract for administrative agent services;
- 18 4. Have a submission deadline of April 1, 2012;
- 19 5. Provide that the administrative agent contract award be
20 announced on May 15, 2012; and
- 21 6. Provide that the administrative agent contract awarded begin
22 July 1, 2012.

23 B. The State of Oklahoma shall not discriminate against
24 suppliers from states or nations outside Oklahoma and shall

1 reciprocate the bidding preference given by other states or nations
2 to suppliers domiciled in their jurisdictions for acquisitions
3 pursuant to The Oklahoma Central Purchasing Act. The state shall
4 give preference to a resident bidder over other state or foreign
5 bidders if goods or services provided in this state are equal in
6 price, fitness, availability or quality.

7 C. Suppliers shall be required to have comprehensive experience
8 in the administration of a Medicaid home- and community-based
9 service delivery system for elders in frail health and adults with
10 disabilities. The administrative agent contract shall be awarded to
11 one supplier based on qualification, merit and cost competitiveness
12 and evaluation criteria that include:

- 13 1. Qualifications and experience in providing similar services;
- 14 2. Knowledge and technical competence;
- 15 3. Management, key personnel and other professional
16 certifications;
- 17 4. Timeliness and responsiveness of services;
- 18 5. Detailed budget/costs;
- 19 6. Proposal for management and administration with detailed
20 description of:

- 21 a. administrative structures that shall be in place prior
22 to contract implementation to support the scope of
23 services,
- 24 b. processes and procedures for daily operations,

- c. expected outcomes along with the performance measures used to measure the effectiveness of each function,
- d. description of data collection methods and reporting mechanisms,
- e. methods used to collaborate and communicate with members, service providers, local and state health and human service agencies, regulatory agencies, and other stakeholders, and
- f. detailed description and supporting documentation of how each waiver assurance will be met.

D. State employees currently performing such function shall be allowed to compete by submitting a bid to perform the administrative agency functions required in the day-to-day operations of the ADvantage Waiver Program; provided, however, that any and all such bids shall be submitted to and certified by the Oklahoma Health Care Authority, who shall for purposes of this section constitute the "agency" as such term is defined in the Oklahoma Privatization of State Functions Act.

E. The Oklahoma Health Care Authority Board shall promulgate rules and establish procedures necessary to implement the request for proposals and for the administration of the ADvantage Waiver Program pursuant to this section.

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SECTION 6. This act shall become effective September 1, 2011.

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