

1 **SENATE FLOOR VERSION**

2 April 11, 2011

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

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

6 and

7 Jolley and Allen of the
8 Senate

9
10 [poor persons - Oklahoma Choices for Long-Term Care
11 Act - codification - noncodification - effective
12 date]

13
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

18 A. This act shall be known and may be cited as the "Oklahoma
19 Choices for Long-Term Care Act".

20 B. The purpose of the Oklahoma Choices for Long-Term Care Act
21 is to make long-term services and supports for citizens easily
22 accessible, cost-effective and of high quality and to provide a
23 comprehensive and systematic approach to addressing these needs.
24 The Oklahoma Choices for Long-Term Care Act shall provide older

1 Oklahomans and adults with physical disabilities the opportunity to
2 choose where they live and receive their services, and provide
3 efficient administration of the ADvantage Waiver Program.

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

7 The Legislature finds that:

8 1. Oklahoma has a successful home- and community-based services
9 program known as the ADvantage Waiver Program for the frail, elderly
10 and adults with physical disabilities age twenty-one (21) and over
11 who do not have mental retardation nor a cognitive impairment. The
12 ADvantage Waiver Program provides the following services: case
13 management, transitional case management, advantage personal care,
14 advanced supportive/restorative, skilled nursing - home health
15 setting, RN assessment evaluation, occupational therapy, physical
16 therapy, respiratory therapy, speech/language therapy, adult day
17 health, personal care in adult day health, therapy in adult day
18 health, home-delivered meals, NF extended respite, in-home respite,
19 in-home extended respite, environmental modifications, hospice,
20 consumer-directed personal care assistant services and supports,
21 assisted living, and specialized medical equipment and supplies;

22 2. Many Oklahomans who could safely stay at home with cost-
23 effective home- and community-based services go into nursing
24 facilities the day assistance is needed because their eligibility

1 for nursing facility supports is "presumed" by the nursing facility,
2 while eligibility for home and community supports can take weeks or
3 months. If their circumstances are such that they need immediate or
4 urgent care, they lose their choice to live and receive their
5 services at home. Once they are in a nursing facility, they may
6 lose their home or the supports they need to stay at home; and

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

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

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

15 1. Qualify financially for Medicaid;

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

20 3. Be determined to meet the nursing facility institutional
21 level of care by the Aging Services Division of the Department of
22 Human Services;

23 4. Reside in his or her own home or a family member's home; and
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1 5. Have needs that can be safely met with waiver services and
2 family or community supports.

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

6 A. The Oklahoma Health Care Authority is directed to create a
7 system of enrollment, Medicaid eligibility, and certification for
8 home- and community-based services provided by the ADvantage 1915C
9 Waiver Program that provides for presumptive Medicaid eligibility
10 and certification that is the same as that which exists for nursing
11 facilities as provided for in administrative rules promulgated by
12 the Oklahoma Health Care Authority Board. The system shall
13 facilitate the provision of home- and community-based services to
14 persons at risk of placement in a nursing facility but who elect to
15 be served in a home- and community-based setting in lieu of nursing
16 facility services.

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

21 C. The Oklahoma Health Care Authority shall develop and submit
22 for approval no later than November 1, 2011, applications for
23 waivers or amendments to waivers of applicable federal laws and
24 regulations as necessary to implement the provisions of the Oklahoma

1 Choices for Long-Term Care Act. Copies of all waivers submitted to
2 the United States Centers for Medicare and Medicaid Services shall
3 be provided to the Governor, the Speaker of the Oklahoma House of
4 Representatives and the President Pro Tempore of the Oklahoma State
5 Senate within ten (10) days of their submissions. Waivers and
6 amendments to waivers approved by the United States Centers for
7 Medicare and Medicaid Services as provided in this section shall be
8 provided to the Governor, the Speaker of the Oklahoma House of
9 Representatives and the President Pro Tempore of the Oklahoma State
10 Senate within ten (10) days of their approval. The Oklahoma Health
11 Care Authority shall implement any waivers and amendments to waivers
12 approved by the United States Centers for Medicare and Medicaid
13 Services no later than January 1, 2012, or within sixty (60) days of
14 their approval. The Oklahoma Health Care Authority shall report the
15 savings as the result of the Oklahoma Choices for Long-Term Care Act
16 each year in its annual report.

17 SECTION 5. NEW LAW A new section of law not to be
18 codified in the Oklahoma Statutes reads as follows:

19 A. On or before January 1, 2012, the Oklahoma Health Care
20 Authority shall initiate a request for proposals to contract for the
21 performance of functions required in the day-to-day operation of the
22 administration of the Oklahoma Medicaid ADvantage Waiver Program.
23 Factors to be considered when selecting a proposal and awarding a
24 contract shall include, but not be limited to, cost of services,

1 availability of services, capability of providing quality services,
2 and any previous experience with a state agency providing such
3 services.

4 B. Such request for proposals shall comply with the provisions
5 of the Oklahoma Central Purchasing Act.

6 C. State employees currently performing the function shall be
7 allowed to compete under the provisions of the Privatization of
8 State Functions Act.

9 D. The Oklahoma Health Care Authority Board is authorized to
10 approve a contract for the administration of the ADvantage Waiver
11 Program pursuant to this section.

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

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

17 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-6-11 - DO
18 PASS, As Amended.

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