

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1363

By: Peters

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5
6 AS INTRODUCED

7 An Act relating to poor persons; creating the
8 Oklahoma Choices for Long-Term Care Act; stating
9 purpose; making legislative findings; stating
10 eligibility for the ADvantage waiver program;
11 directing Oklahoma Health Care Authority to create a
12 system of eligibility for home- and community-based
13 services; directing Department of Human Services to
14 make certain changes in regulations; directing
15 Authority to submit applications for waivers by
16 certain date; providing that copies of waivers be
17 provided to certain individuals; requiring authority
18 to implement waivers within certain time period;
19 requiring authority to include certain information in
20 annual report; providing for codification; and
21 providing an effective date.

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

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

25 A. Sections 1 through 4 of this act shall be known and may be
26 cited as the "Oklahoma Choices for Long-Term Care Act".

27 B. The purpose of the Oklahoma Choices for Long-Term Care Act
28 is to allow older Oklahomans the opportunity to choose where they

1 want to live and receive their services by providing the same
2 presumptive eligibility based on a physician's order for the
3 ADvantage program as exists for nursing facilities.

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 program provides the following services: case management,
13 transitional case management, advantage personal care, advanced
14 supportive/restorative, skilled nursing - home health setting, RN
15 assessment evaluation, occupational therapy, physical therapy,
16 respiratory therapy, speech/language therapy, adult day health,
17 personal care in adult day health, therapy in adult day health,
18 home-delivered meals, NF extended respite, in-home respite, in-home
19 extended respite, environmental modifications, hospice, and
20 specialized medical equipment and supplies;

21 2. Many Oklahomans who could safely stay at home with cost-
22 effective home- and community-based services go into nursing
23 facilities because their eligibility for nursing facility supports
24 is "presumed" based on a physician's order, while eligibility for

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

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

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

13 To be eligible for the ADvantage waiver program, a person must:

14 1. Qualify financially for Medicaid;

15 2. Be sixty-five (65) years of age or older or be a disabled
16 adult as determined by the Social Security Administration;

17 3. Be determined to meet the nursing facility institutional
18 level of care by nursing staff of the Aging Services Division of the
19 Department of Human Services;

20 4. Not have a diagnosis of mental retardation nor have a
21 cognitive impairment;

22 5. Reside in his or her own home or a family member's home; and

23 6. Have needs that can be safely met with waiver services and
24 family or community supports.

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

4 A. The Oklahoma Health Care Authority is directed to create a
5 system of eligibility for home- and community-based services
6 provided by the ADvantage 1915C waiver program that provides for
7 presumptive eligibility based on a physician's order that is the
8 same as that which exists for nursing facilities.

9 B. The Department of Human Services is directed to make such
10 changes in its regulations, policies and procedures as are necessary
11 to implement the eligibility requirements established pursuant to
12 subsection A of this section.

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

1 Representatives and the President Pro Tempore of the Oklahoma State
2 Senate within ten (10) days of their approval. The Oklahoma Health
3 Care Authority shall implement any waivers and amendments to waivers
4 approved by the United States Centers for Medicare and Medicaid
5 Services no later than January 1, 2012, or within sixty (60) days of
6 their approval. The Oklahoma Health Care Authority shall report the
7 savings as the result of the Oklahoma Choices for Long-Term Care Act
8 each year in its annual report.

9 SECTION 5. This act shall become effective September 1, 2011.

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