

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 1278

By: Lawson of the House

and

Rosino of the Senate

[community-based service providers - establishing
requirements for reductions in planned services -
effective date]

AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
entire bill and insert

"An Act relating to home- and community-based
services; defining term; establishing certain
requirements for reductions in planned services;
providing for codification; and providing an
effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1018 of Title 56, unless there
is created a duplication in numbering, reads as follows:

A. As used in this section, "contracted community-based service
provider" means any entity contracted by the Department of Human
Services, the Oklahoma Health Care Authority, or any private person
providing the support, or promotion of support, for a service

1 recipient to remain in such person's home or residence and shall
2 include, but not be limited to, entities and persons providing
3 personal support, professional support, case management,
4 transportation services and services through a Home and Community-
5 Based Waiver or ADvantage Waiver as defined by Title XIX of the
6 Social Security Act, Section 1915 (C).

7 B. Beginning on the effective date of this act, any reductions
8 in planned services provided by a contracted community-based service
9 provider shall comply with the following:

10 1. All reductions in planned services shall be applied
11 prospectively and shall not be changed retroactively. Any prior
12 authorized services rendered under the current plan shall be
13 reimbursed; and

14 2. The updated algorithms shall not affect any prior authorized
15 service.

16 SECTION 2. This act shall become effective November 1, 2019."
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1 Passed the Senate the 16th day of April, 2019.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2019.

7
8 _____
9 Presiding Officer of the House
10 of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 1278

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

13 SECTION 3. AMENDATORY 56 O.S. 2011, Section 2004, as
14 amended by Section 242, Chapter 304, O.S.L. 2012 (56 O.S. Supp.
15 2018, Section 2004), is amended to read as follows:

16 Section 2004. A. As used in this section:

17 1. "Additional costs reimbursed to the contracted community-
18 based service provider" means both state and federal Medicaid
19 expenditures in excess of the aggregate amounts that would otherwise
20 have been paid to a contracted community-based service provider
21 including, but not limited to, costs related to an audit required by
22 the Department of Human Services, the Oklahoma Health Care
23 Authority, or the State Auditor and Inspector;
24

1 2. "Contracted community-based service provider" means any
2 entity contracted by the Department of Human Services, the Oklahoma
3 Health Care Authority, or any private person providing the support,
4 or promotion of support, for a service recipient to remain in such
5 person's home or residence and shall include, but not be limited to,
6 entities and persons providing personal support, professional
7 support, case management, transportation services, and services
8 through a Home- and Community-Based Waiver or ~~Advantage~~ ADvantage
9 Waiver as defined by Title XIX of the Social Security Act, Section
10 1915 (C);

11 3. "Gross receipts" means annual gross revenues received in
12 compensation for services rendered by a contracted community-based
13 service provider, but shall not include any amount received by a
14 contracted service provider as a charitable contribution or any
15 amount received by a provider as compensation for services rendered
16 that is not reimbursed; and

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

20 B. Information required to calculate the Home-Based Support
21 Quality Assurance Assessment provided in Section 4002 of Title 68 of
22 the Oklahoma Statutes for a contracted community-based service
23 provider shall be reported to the Oklahoma Health Care Authority
24 using forms supplied by the Oklahoma Health Care Authority.

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

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

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

9 a. all monies received by the Oklahoma Health Care
10 Authority pursuant to Section 4002 of Title 68 of the
11 Oklahoma Statutes and otherwise specified or
12 authorized by law,

13 b. monies received by the Oklahoma Health Care Authority
14 due to federal financial participation pursuant to
15 Title XIX of the Social Security Act, and

16 c. interest attributable to investment of money in the
17 Home-Based Quality Assurance Fund.

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

22 4. Expenditures from the fund shall be made upon warrants
23 issued by the State Treasurer against claims filed as prescribed by
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1 law with the Director of the Office of Management and Enterprise
2 Services for approval and payment.

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

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

11 7. No contracted community-based service provider shall be
12 guaranteed, expressly or otherwise, that any additional costs
13 reimbursed to the contracted community-based service provider shall
14 equal or exceed the amount of the Home-Based Quality Assurance
15 Assessment paid by the contracted community-based service provider.

16 E. 1. If federal financial participation pursuant to Title XIX
17 of the Social Security Act is not available to the Oklahoma Medicaid
18 program, for purposes of matching expenditures from the Home-Based
19 Quality Assurance Fund at the approved federal medical assistance
20 percentage for the applicable fiscal year, the Home-Based Quality
21 Assurance Assessment shall be null and void as of the date of the
22 nonavailability of such federal funding, through and during any
23 period of nonavailability.

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

5 3. If the Home-Based Quality Assurance Assessment is determined
6 to be void for any of the reasons enumerated in this section, any
7 Home-Based Quality Assurance Assessment assessed and collected for
8 any periods after such invalidation shall be returned in full within
9 sixty (60) days by the Oklahoma Health Care Authority to the
10 contracted community-based service provider from which it was
11 collected.

12 4. If any provision of this section, or the application
13 thereof, is determined by any court of last resort to prevent the
14 state from obtaining federal financial participation in the state
15 Medicaid program, such provision shall be deemed void as of the date
16 of the nonavailability of such federal funding and through and
17 during any period of nonavailability.

18 F. 1. If any provision of this section or the application
19 thereof shall be adjudged to be invalid by any court of last resort,
20 such judgment shall not affect, impair or invalidate the remaining
21 provisions of the section, but shall be confined in its operation to
22 the provision thereof directly involved in the controversy in which
23 such judgment was rendered. The applicability of such provision to
24 other persons or circumstances shall not be affected thereby.

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

8 G. The Oklahoma Health Care Authority shall:

9 1. Promulgate rules for the implementation and enforcement of
10 the Home-Based Quality Assurance Assessment established by this
11 section; and

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

- 14 a. submit the Home-Based Quality Assurance Assessment,
- 15 b. submit the Home-Based Quality Assurance Assessment in
16 a timely manner, or
- 17 c. submit reports as required by this section or by the
18 Oklahoma Health Care Authority.

19 H. Beginning November 1, 2019, any reductions in planned
20 services shall comply with the following:

21 1. All reductions in planned services shall be applied
22 prospectively with the new plan year and not changed retroactively;

23 2. The updated algorithms shall not affect any prior authorized
24 service; and

3. Any new participant through the ADvantage Waiver program shall receive a minimum of two hundred units of case management services to allow for the development of two plans within the same year.

SECTION 4. This act shall become effective November 1, 2019.

Passed the House of Representatives the 4th day of March, 2019.

Presiding Officer of the House
of Representatives

Passed the Senate the ____ day of _____, 2019.

Presiding Officer of the Senate