

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3477 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Marcus McEntire

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 3477

By: McEntire

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to public health; amending 63 O.S. 2011, Section 3241.4, as last amended by Section 3, Chapter 345, O.S.L. 2016 (63 O.S. Supp. 2019, Section 3241.4), which relates to the Supplemental Hospital Offset Payment Program Fund; prohibiting the Oklahoma Health Care Authority from funding payments to managed care organizations; requiring payments to be made directly to hospitals; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 3241.4, as last amended by Section 3, Chapter 345, O.S.L. 2016 (63 O.S. Supp. 2019, Section 3241.4), is amended to read as follows:

Section 3241.4 A. There is hereby created in the State Treasury a revolving fund to be designated the "Supplemental Hospital Offset Payment Program Fund".

B. The fund shall be a continuing fund, not subject to fiscal year limitations, be interest bearing and consisting of:

1 1. All monies received by the Oklahoma Health Care Authority
2 from hospitals pursuant to the Supplemental Hospital Offset Payment
3 Program Act and otherwise specified or authorized by law;

4 2. Any interest or penalties levied and collected in
5 conjunction with the administration of this section; and

6 3. All interest attributable to investment of money in the
7 fund.

8 C. Notwithstanding any other provisions of law, the Oklahoma
9 Health Care Authority is authorized to transfer Seven Million Five
10 Hundred Thousand Dollars (\$7,500,000.00) each fiscal quarter from
11 the Supplemental Hospital Offset Payment Program Fund to the
12 Authority's Medical Payments Cash Management Improvement Act
13 Programs Disbursing Fund; however, the Oklahoma Health Care
14 Authority is prohibited from using any portion of these transfers to
15 fund payments to managed care organizations.

16 D. Notice of Assessment.

17 1. The Authority shall send a notice of assessment to each
18 hospital informing the hospital of the assessment rate, the
19 hospital's net patient revenue calculation, and the assessment
20 amount owed by the hospital for the applicable year.

21 2. Annual notices of assessment shall be sent at least thirty
22 (30) days before the due date for the first quarterly assessment
23 payment of each year.
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1 3. The first notice of assessment shall be sent within forty-
2 five (45) days after receipt by the Authority of notification from
3 the Centers for Medicare and Medicaid Services that the assessments
4 and payments required under the Supplemental Hospital Offset Payment
5 Program Act and, if necessary, the waiver granted under 42 C.F.R.,
6 Section 433.68 have been approved.

7 4. The hospital shall have thirty (30) days from the date of
8 its receipt of a notice of assessment to review and verify the
9 assessment rate, the hospital's net patient revenue calculation, and
10 the assessment amount.

11 5. A hospital subject to an assessment under the Supplemental
12 Hospital Offset Payment Program Act that has not been previously
13 licensed as a hospital in Oklahoma and that commences hospital
14 operations during a year shall pay the required assessment computed
15 under subsection E of Section 3241.3 of this title and shall be
16 eligible for hospital access payments under subsection E of this
17 section on the date specified in rules promulgated by the Authority
18 after consideration of input and recommendations of the Hospital
19 Advisory Committee.

20 E. Quarterly Notice and Collection.

21 1. The annual assessment imposed under subsection A of Section
22 3241.3 of this title shall be due and payable on a quarterly basis.
23 However, the first installment payment of an assessment imposed by
24

1 the Supplemental Hospital Offset Payment Program Act shall not be
2 due and payable until:

3 a. the Authority issues written notice stating that the
4 assessment and payment methodologies required under
5 the Supplemental Hospital Offset Payment Program Act
6 have been approved by the Centers for Medicare and
7 Medicaid Services and the waiver under 42 C.F.R.,
8 Section 433.68, if necessary, has been granted by the
9 Centers for Medicare and Medicaid Services,

10 b. the thirty-day verification period required by
11 paragraph 4 of subsection D of this section has
12 expired, and

13 c. the Authority issues a notice giving a due date for
14 the first payment.

15 2. After the initial installment of an annual assessment has
16 been paid under this section, each subsequent quarterly installment
17 payment shall be due and payable by the fifteenth day of the first
18 month of the applicable quarter.

19 3. If a hospital fails to timely pay the full amount of a
20 quarterly assessment, the Authority shall add to the assessment:

21 a. a penalty assessment equal to five percent (5%) of the
22 quarterly amount not paid on or before the due date,
23 and
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1 b. on the last day of each quarter after the due date
2 until the assessed amount and the penalty imposed
3 under subparagraph a of this paragraph are paid in
4 full, an additional five-percent penalty assessment on
5 any unpaid quarterly and unpaid penalty assessment
6 amounts.

7 4. The quarterly assessment including applicable penalties and
8 interest must be paid regardless of any appeals action requested by
9 the facility. If a provider fails to pay the Authority the
10 assessment within the time frames noted on the invoice to the
11 provider, the assessment, applicable penalty, and interest will be
12 deducted from the facility's payment. Any change in payment amount
13 resulting from an appeals decision will be adjusted in future
14 payments.

15 F. Medicaid Hospital Access Payments.

16 1. To preserve the quality and improve access to hospital
17 services for hospital inpatient and outpatient services rendered on
18 or after the effective date of this act, the Authority shall make
19 hospital access payments as set forth in this section.

20 2. The Authority shall pay all quarterly hospital access
21 payments within ten (10) calendar days of the due date for quarterly
22 assessment payments established in subsection E of this section.

1 3. The Authority shall calculate the hospital access payment
2 amount up to but not to exceed the upper payment limit gap for
3 inpatient and outpatient services.

4 4. All hospitals shall be eligible for inpatient and outpatient
5 hospital access payments each year as set forth in this subsection
6 except hospitals described in paragraph 1, 2, 3 or 4 of subsection B
7 of Section 3241.3 of this title.

8 5. A portion of the hospital access payment amount, not to
9 exceed the upper payment limit gap for inpatient services, shall be
10 designated as the inpatient hospital access payment pool.

11 a. In addition to any other funds paid to hospitals for
12 inpatient hospital services to Medicaid patients, each
13 eligible hospital shall receive inpatient hospital
14 access payments each year equal to the hospital's pro
15 rata share of the inpatient hospital access payment
16 pool based upon the hospital's Medicaid payments for
17 inpatient services divided by the total Medicaid
18 payments for inpatient services of all eligible.

19 b. Inpatient hospital access payments shall be made on a
20 quarterly basis.

21 6. A portion of the hospital access payment amount, not to
22 exceed the upper payment limit gap for outpatient services, shall be
23 designated as the outpatient hospital access payment pool.

1 a. In addition to any other funds paid to hospitals for
2 outpatient hospital services to Medicaid patients,
3 each eligible hospital shall receive outpatient
4 hospital access payments each year equal to the
5 hospital's pro rata share of the outpatient hospital
6 access payment pool based upon the hospital's Medicaid
7 payments for outpatient services divided by the total
8 Medicaid payments for outpatient services of all
9 eligible.

10 b. Outpatient hospital access payments shall be made on a
11 quarterly basis.

12 7. A portion of the inpatient hospital access payment pool and
13 of the outpatient hospital access payment pool shall be designated
14 as the critical access hospital payment pool.

15 a. In addition to any other funds paid to critical access
16 hospitals for inpatient and outpatient hospital
17 services to Medicaid patients, each critical access
18 hospital shall receive hospital access payments equal
19 to the amount by which the payment for these services
20 was less than one hundred one percent (101%) of the
21 hospital's cost of providing these services, as
22 determined using the Medicare Cost Report.

23 b. The Authority shall calculate hospital access payments
24 for critical access hospitals and deduct these

1 payments from the inpatient hospital access payment
2 pool and the outpatient hospital access payment pool
3 before allocating the remaining balance in each pool
4 as provided in subparagraph a of paragraph 5 and
5 subparagraph a of paragraph 6 of this subsection.

6 c. Critical access hospital payments shall be made on a
7 quarterly basis.

8 8. A hospital access payment shall not be used to offset any
9 other payment by Medicaid for hospital inpatient or outpatient
10 services to Medicaid beneficiaries, including without limitation any
11 fee-for-service, per diem, private hospital inpatient adjustment, or
12 cost-settlement payment.

13 9. If the Centers for Medicare and Medicaid Services finds that
14 the Authority has made payments to hospitals that exceed the upper
15 payment limits determined in accordance with 42 C.F.R. 447.272 and
16 42 C.F.R. 447.321, hospitals shall refund to the Authority a share
17 of the recouped federal funds that is proportionate to the
18 hospitals' positive contribution to the upper payment limit.

19 G. All monies accruing to the credit of the Supplemental
20 Hospital Offset Payment Program Fund are hereby appropriated and
21 shall be budgeted and expended by the Authority after consideration
22 of the input and recommendation of the Hospital Advisory Committee.

23 1. Monies in the Supplemental Hospital Offset Payment Program
24 Fund shall be used only for:

- a. transfers to the Medical Payments Cash Management Improvement Act Programs Disbursing Fund (Fund 340) for the state share of supplemental payments for Medicaid and SCHIP inpatient and outpatient services to hospitals that participate in the assessment,
- b. transfers to the Medical Payments Cash Management Improvement Act Programs Disbursing Fund (Fund 340) for the state share of supplemental payments for Critical Access Hospitals,
- c. transfers to the Administrative Revolving Fund (Fund 200) for the state share of payment of administrative expenses incurred by the Authority or its agents and employees in performing the activities authorized by the Supplemental Hospital Offset Payment Program Act but not more than Two Hundred Thousand Dollars (\$200,000.00) each year,
- d. transfers to the Medical Payments Cash Management Improvement Act Programs Disbursing Fund (Fund 340) in an amount not to exceed Seven Million Five Hundred Thousand Dollars (\$7,500,000.00) each fiscal quarter, and
- e. the reimbursement of monies collected by the Authority from hospitals through error or mistake in performing

1 the activities authorized under the Supplemental
2 Hospital Offset Payment Program Act.

3 2. The Authority shall pay from the Supplemental Hospital
4 Offset Payment Program Fund quarterly installment payments to
5 hospitals of amounts available for supplemental inpatient and
6 outpatient payments, and supplemental payments for Critical Access
7 Hospitals. These payments shall be made directly to the hospitals,
8 and not through any managed care organization or other third party.

9 3. Except for the transfers described in subsection C of this
10 section, monies in the Supplemental Hospital Offset Payment Program
11 Fund shall not be used to replace other general revenues
12 appropriated and funded by the Legislature or other revenues used to
13 support Medicaid.

14 4. The Supplemental Hospital Offset Payment Program Fund and
15 the program specified in the Supplemental Hospital Offset Payment
16 Program Act are exempt from budgetary reductions or eliminations
17 caused by the lack of general revenue funds or other funds
18 designated for or appropriated to the Authority.

19 5. No hospital shall be guaranteed, expressly or otherwise,
20 that any additional costs reimbursed to the facility will equal or
21 exceed the amount of the supplemental hospital offset payment
22 program fee paid by the hospital.
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1 H. After considering input and recommendations from the
2 Hospital Advisory Committee, the Authority shall promulgate
3 regulations that:

4 1. Allow for an appeal of the annual assessment of the
5 Supplemental Hospital Offset Payment Program payable under this act;
6 and

7 2. Allow for an appeal of an assessment of any fees or
8 penalties determined.

9 SECTION 2. This act shall become effective November 1, 2020.

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