

1 ENGROSSED SENATE  
2 BILL NO. 1370

By: McCortney of the Senate

3 and

4 McEntire of the House  
5

6 An Act relating to the state Medicaid program;  
7 stating purpose of act; creating the I/T/U Shared  
8 Savings Program; providing that certain services may  
9 be subject to certain reimbursement; providing for  
10 certain distribution and deposit of savings;  
11 prohibiting certain use of fund; requiring certain  
12 actions and distributions to be conducted in  
13 accordance with certain federal guidance; specifying  
14 criteria of care coordination agreements; providing  
15 for promulgation of rules and execution of contracts  
16 in accordance with certain requirements; requiring  
17 the Oklahoma Health Care Authority to seek certain  
18 federal approval; providing for termination of the  
19 I/T/U Shared Savings Program under certain  
20 conditions; creating the I/T/U Shared Savings  
21 Revolving Fund; specifying purpose of fund and  
22 revenue sources; requiring submission of certain  
23 annual report; specifying criteria of report;  
24 providing for codification; providing an effective  
date; and declaring an emergency.

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 1011.16 of Title 56, unless  
there is created a duplication in numbering, reads as follows:

A. The purpose of this act is to maximize and direct the  
reinvestment of any savings to the Oklahoma Health Care Authority  
generated by enhanced federal matching authorized under Section

1 1905(b) of the Social Security Act at a rate of one hundred percent  
2 (100%) for covered services received through participating Indian  
3 Health Services, Tribal, and Urban Indian (I/T/U) facilities.

4 B. There is hereby created the I/T/U Shared Savings Program.  
5 Pursuant to guidance of the Centers for Medicare & Medicaid Services  
6 (CMS), authorized services provided by a non-I/T/U Medicaid provider  
7 to an American Indian or Alaska Native (AI/AN) Medicaid beneficiary  
8 as a result of a referral from an I/T/U facility provider may be  
9 eligible for the enhanced federal matching rate of one hundred  
10 percent (100%).

11 C. 1. The Authority shall distribute up to fifty percent (50%)  
12 of any savings that result from the I/T/U Shared Savings Program  
13 provided for in this section to participating I/T/U facilities that  
14 have complied with the terms of this act and applicable federal law,  
15 but only after administrative costs incurred by the Authority in  
16 implementing the I/T/U Shared Savings Program have been fully  
17 satisfied.

18 2. Distributions to participating I/T/U facilities shall be  
19 used to increase care coordination and to support health care  
20 initiatives for AI/AN populations.

21 3. The Authority shall deposit any shared savings that remain  
22 after administrative costs have been fully paid, and after  
23 distributions have been made to participating I/T/U facilities, into  
24 the I/T/U Shared Savings Revolving Fund created in Section 2 of this

1 act for the purpose of increasing Medicaid provider rates. Monies  
2 in the fund shall not be used to replace other general revenues  
3 appropriated and funded by the Legislature or other revenues used to  
4 support Medicaid.

5 D. 1. All actions taken by the Authority in implementing the  
6 I/T/U Shared Savings Program shall be made in accordance with  
7 applicable state and federal Medicaid law and CMS State Health  
8 Official letter (SHO) #16-002, issued on February 26, 2016, and CMS  
9 Frequently Asked Questions (FAQs) regarding "Federal Funding for  
10 Services 'Received Through' an IHS/Tribal Facility and Furnished to  
11 Medicaid-Eligible American Indians and Alaska Natives (SHO #16-002)"  
12 issued on January 18, 2017, and as such guidance may be hereinafter  
13 amended or modified.

14 2. The Authority shall make distributions to a participating  
15 I/T/U facility in accordance with paragraph 1 of subsection C of  
16 this section, contingent upon the production of executed copies of  
17 Care Coordination Agreements (CCAs) for all services billed to  
18 Oklahoma Medicaid that were received through the I/T/U facility.  
19 CCAs must be executed between the I/T/U facility and the non-I/T/U  
20 provider and must include, at a minimum, assurances that care  
21 coordination shall involve:

- 22 a. the I/T/U facility practitioner providing a request  
23 for specific services by electronic or other  
24

- 1           verifiable means and relevant information about the  
2           practitioner's patient to the non-I/T/U provider,  
3       b.   the non-I/T/U provider sending information about the  
4           care the non-I/T/U provider provides to the patient,  
5           including the results of any screening, diagnostic or  
6           treatment procedures, to the I/T/U facility  
7           practitioner,  
8       c.   the I/T/U facility practitioner continuing to assume  
9           responsibility for the patient's care by assessing the  
10          information and taking appropriate action, including,  
11          when necessary, furnishing or requesting additional  
12          services, and  
13       d.   the I/T/U facility incorporating the patient's  
14          information in the medical record through the  
15          statewide health information exchange or other agreed-  
16          upon means.

17       E.   The Oklahoma Health Care Authority Board is authorized to  
18   promulgate administrative rules, and to enter into contractual  
19   agreements with I/T/U facilities, as needed to effectuate the  
20   provisions of this act. As part of the rulemaking process, the  
21   Authority shall comply with the Tribal Consultation Requirements  
22   provided by the Medicaid State Plan.

23       F.   The Authority shall promptly seek any necessary federal  
24   approval for the implementation of this act. In the event that any

1 necessary federal approval is not obtained, or in the event funding  
2 of Oklahoma Medicaid from state, federal, or other sources is  
3 withdrawn, reduced or limited in any way that affects implementation  
4 of the I/T/U Shared Savings Program, the I/T/U Shared Savings  
5 Program may be terminated immediately by the Authority, and no court  
6 or tribunal shall have jurisdiction to review such termination.

7       SECTION 2.       NEW LAW       A new section of law to be codified  
8 in the Oklahoma Statutes as Section 1011.17 of Title 56, unless  
9 there is created a duplication in numbering, reads as follows:

10       A. There is hereby created in the State Treasury a revolving  
11 fund for the Oklahoma Health Care Authority to be designated the  
12 "I/T/U Shared Savings Revolving Fund". The fund shall be a  
13 continuing fund, not subject to fiscal year limitations, and shall  
14 consist of all monies received by the Authority pursuant to this  
15 section and otherwise specified or authorized by law.

16       All monies accruing to the credit of the fund are hereby  
17 appropriated and shall be budgeted and expended by the Authority to  
18 increase Medicaid provider rates, unless otherwise provided by law.  
19 Expenditures from the fund shall be made upon warrants issued by the  
20 State Treasurer against claims filed as prescribed by law with the  
21 Director of the Office of Management and Enterprise Services for  
22 approval and payment.

23       B. An annual report shall be prepared by the Authority's Chief  
24 Financial Officer and shall be submitted to the Governor, the

1 President Pro Tempore of the Senate and the Speaker of the House of  
2 Representatives no later than thirty (30) days following the end of  
3 each State Fiscal Year. The annual report shall account for:

4 1. The savings realized by the Authority as a result of the  
5 I/T/U Shared Savings Program;

6 2. The administrative costs incurred by the Authority as a  
7 result of the I/T/U Shared Savings Program;

8 3. The monies distributed to participating I/T/U facilities as  
9 a result of I/T/U Shared Savings Program, including, but not limited  
10 to, a summary of all specific distributions;

11 4. The balance of savings realized by the Authority as a result  
12 of the I/T/U Shared Savings Program and accruing to the credit of  
13 the fund, after payment of administrative costs and distributions to  
14 participating I/T/U facilities; and

15 5. The monies expended on increasing Medicaid provider rates  
16 including, but not limited to, identification of the types of  
17 providers affected and the percentage by which the providers' rates  
18 were increased.

19 SECTION 3. This act shall become effective July 1, 2020.

20 SECTION 4. It being immediately necessary for the preservation  
21 of the public peace, health or safety, an emergency is hereby  
22 declared to exist, by reason whereof this act shall take effect and  
23 be in full force from and after its passage and approval.

1 Passed the Senate the 11th day of March, 2020.

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3 \_\_\_\_\_  
4 Presiding Officer of the Senate

5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2020.

7  
8 \_\_\_\_\_  
9 Presiding Officer of the House  
10 of Representatives