

1 ENGROSSED HOUSE  
2 BILL NO. 3477

By: McEntire of the House

3 and

4 McCortney of the Senate

5  
6 An Act relating to public health; amending 63 O.S.  
7 2011, Section 3241.4, as last amended by Section 3,  
8 Chapter 345, O.S.L. 2016 (63 O.S. Supp. 2019, Section  
9 3241.4), which relates to the Supplemental Hospital  
10 Offset Payment Program Fund; prohibiting the Oklahoma  
11 Health Care Authority from funding payments to  
12 managed care organizations; requiring payments to be  
made directly to hospitals; and providing an  
effective date.

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

14 SECTION 1. AMENDATORY 63 O.S. 2011, Section 3241.4, as  
15 last amended by Section 3, Chapter 345, O.S.L. 2016 (63 O.S. Supp.  
16 2019, Section 3241.4), is amended to read as follows:

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

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

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

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

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

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

13        D. Notice of Assessment.

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

18        2. Annual notices of assessment shall be sent at least thirty  
19 (30) days before the due date for the first quarterly assessment  
20 payment of each year.

21        3. The first notice of assessment shall be sent within forty-  
22 five (45) days after receipt by the Authority of notification from  
23 the Centers for Medicare and Medicaid Services that the assessments  
24 and payments required under the Supplemental Hospital Offset Payment

1 Program Act and, if necessary, the waiver granted under 42 C.F.R.,  
2 Section 433.68 have been approved.

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

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

16 E. Quarterly Notice and Collection.

17 1. The annual assessment imposed under subsection A of Section  
18 3241.3 of this title shall be due and payable on a quarterly basis.  
19 However, the first installment payment of an assessment imposed by  
20 the Supplemental Hospital Offset Payment Program Act shall not be  
21 due and payable until:

22 a. the Authority issues written notice stating that the  
23 assessment and payment methodologies required under  
24 the Supplemental Hospital Offset Payment Program Act

1 have been approved by the Centers for Medicare and  
2 Medicaid Services and the waiver under 42 C.F.R.,  
3 Section 433.68, if necessary, has been granted by the  
4 Centers for Medicare and Medicaid Services,

5 b. the thirty-day verification period required by  
6 paragraph 4 of subsection D of this section has  
7 expired, and

8 c. the Authority issues a notice giving a due date for  
9 the first payment.

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

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

16 a. a penalty assessment equal to five percent (5%) of the  
17 quarterly amount not paid on or before the due date,  
18 and

19 b. on the last day of each quarter after the due date  
20 until the assessed amount and the penalty imposed  
21 under subparagraph a of this paragraph are paid in  
22 full, an additional five-percent penalty assessment on  
23 any unpaid quarterly and unpaid penalty assessment  
24 amounts.

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

9        F. Medicaid Hospital Access Payments.

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

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

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

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

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

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

12           b. Inpatient hospital access payments shall be made on a  
13 quarterly basis.

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

17           a. In addition to any other funds paid to hospitals for  
18 outpatient hospital services to Medicaid patients,  
19 each eligible hospital shall receive outpatient  
20 hospital access payments each year equal to the  
21 hospital's pro rata share of the outpatient hospital  
22 access payment pool based upon the hospital's Medicaid  
23 payments for outpatient services divided by the total  
24

1 Medicaid payments for outpatient services of all  
2 eligible.

3 b. Outpatient hospital access payments shall be made on a  
4 quarterly basis.

5 7. A portion of the inpatient hospital access payment pool and  
6 of the outpatient hospital access payment pool shall be designated  
7 as the critical access hospital payment pool.

8 a. In addition to any other funds paid to critical access  
9 hospitals for inpatient and outpatient hospital  
10 services to Medicaid patients, each critical access  
11 hospital shall receive hospital access payments equal  
12 to the amount by which the payment for these services  
13 was less than one hundred one percent (101%) of the  
14 hospital's cost of providing these services, as  
15 determined using the Medicare Cost Report.

16 b. The Authority shall calculate hospital access payments  
17 for critical access hospitals and deduct these  
18 payments from the inpatient hospital access payment  
19 pool and the outpatient hospital access payment pool  
20 before allocating the remaining balance in each pool  
21 as provided in subparagraph a of paragraph 5 and  
22 subparagraph a of paragraph 6 of this subsection.

23 c. Critical access hospital payments shall be made on a  
24 quarterly basis.

1        8. A hospital access payment shall not be used to offset any  
2 other payment by Medicaid for hospital inpatient or outpatient  
3 services to Medicaid beneficiaries, including without limitation any  
4 fee-for-service, per diem, private hospital inpatient adjustment, or  
5 cost-settlement payment.

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

12        G. All monies accruing to the credit of the Supplemental  
13 Hospital Offset Payment Program Fund are hereby appropriated and  
14 shall be budgeted and expended by the Authority after consideration  
15 of the input and recommendation of the Hospital Advisory Committee.

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

- 18            a. transfers to the Medical Payments Cash Management  
19                Improvement Act Programs Disbursing Fund (Fund 340)  
20                for the state share of supplemental payments for  
21                Medicaid and SCHIP inpatient and outpatient services  
22                to hospitals that participate in the assessment,
- 23            b. transfers to the Medical Payments Cash Management  
24                Improvement Act Programs Disbursing Fund (Fund 340)



1 for the state share of supplemental payments for  
2 Critical Access Hospitals,

3 c. transfers to the Administrative Revolving Fund (Fund  
4 200) for the state share of payment of administrative  
5 expenses incurred by the Authority or its agents and  
6 employees in performing the activities authorized by  
7 the Supplemental Hospital Offset Payment Program Act  
8 but not more than Two Hundred Thousand Dollars  
9 (\$200,000.00) each year,

10 d. transfers to the Medical Payments Cash Management  
11 Improvement Act Programs Disbursing Fund (Fund 340) in  
12 an amount not to exceed Seven Million Five Hundred  
13 Thousand Dollars (\$7,500,000.00) each fiscal quarter,  
14 and

15 e. the reimbursement of monies collected by the Authority  
16 from hospitals through error or mistake in performing  
17 the activities authorized under the Supplemental  
18 Hospital Offset Payment Program Act.

19 2. The Authority shall pay from the Supplemental Hospital  
20 Offset Payment Program Fund quarterly installment payments to  
21 hospitals of amounts available for supplemental inpatient and  
22 outpatient payments, and supplemental payments for Critical Access  
23 Hospitals. These payments shall be made directly to the hospitals,  
24 and not through any managed care organization or other third party.

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

6        4. The Supplemental Hospital Offset Payment Program Fund and  
7 the program specified in the Supplemental Hospital Offset Payment  
8 Program Act are exempt from budgetary reductions or eliminations  
9 caused by the lack of general revenue funds or other funds  
10 designated for or appropriated to the Authority.

11       5. No hospital shall be guaranteed, expressly or otherwise,  
12 that any additional costs reimbursed to the facility will equal or  
13 exceed the amount of the supplemental hospital offset payment  
14 program fee paid by the hospital.

15       H. After considering input and recommendations from the  
16 Hospital Advisory Committee, the Authority shall promulgate  
17 regulations that:

18       1. Allow for an appeal of the annual assessment of the  
19 Supplemental Hospital Offset Payment Program payable under this act;  
20 and

21       2. Allow for an appeal of an assessment of any fees or  
22 penalties determined.

23       SECTION 2. This act shall become effective November 1, 2020.  
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1 Passed the House of Representatives the 10th day of March, 2020.

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4 Presiding Officer of the House  
of Representatives

5 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2020.

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8 Presiding Officer of the Senate