

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 3477

By: McEntire

7  
8                               COMMITTEE SUBSTITUTE

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

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

19           SECTION 1.           AMENDATORY           63 O.S. 2011, Section 3241.4, as  
20           last amended by Section 3, Chapter 345, O.S.L. 2016 (63 O.S. Supp.  
21           2019, Section 3241.4), is amended to read as follows:

22           Section 3241.4   A.   There is hereby created in the State  
23           Treasury a revolving fund to be designated the "Supplemental  
24           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.  
24

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  
24

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.  
23  
24

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:



- 1           a.   transfers to the Medical Payments Cash Management  
2                   Improvement Act Programs Disbursing Fund (Fund 340)  
3                   for the state share of supplemental payments for  
4                   Medicaid and SCHIP inpatient and outpatient services  
5                   to hospitals that participate in the assessment,
- 6           b.   transfers to the Medical Payments Cash Management  
7                   Improvement Act Programs Disbursing Fund (Fund 340)  
8                   for the state share of supplemental payments for  
9                   Critical Access Hospitals,
- 10          c.   transfers to the Administrative Revolving Fund (Fund  
11                   200) for the state share of payment of administrative  
12                   expenses incurred by the Authority or its agents and  
13                   employees in performing the activities authorized by  
14                   the Supplemental Hospital Offset Payment Program Act  
15                   but not more than Two Hundred Thousand Dollars  
16                   (\$200,000.00) each year,
- 17          d.   transfers to the Medical Payments Cash Management  
18                   Improvement Act Programs Disbursing Fund (Fund 340) in  
19                   an amount not to exceed Seven Million Five Hundred  
20                   Thousand Dollars (\$7,500,000.00) each fiscal quarter,  
21                   and
- 22          e.   the reimbursement of monies collected by the Authority  
23                   from hospitals through error or mistake in performing  
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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.

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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11 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03/02/2020 - DO PASS,  
12 As Amended.  
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