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February 26, 2020

AS AMENDED

SENATE BILL NO. 1370

By: McCortney of the Senate

and

McEntire of the House

[state Medicaid program - I/T/U Shared Savings Program - reimbursement - savings - fund - federal guidance - care coordination agreements - I/T/U Shared Savings Revolving Fund - codification - ~~effective date~~ -

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

B. There is hereby created the I/T/U Shared Savings Program.

Pursuant to guidance of the Centers for Medicare & Medicaid Services

1 (CMS), authorized services provided by a non-I/T/U Medicaid provider
2 to an American Indian or Alaska Native (AI/AN) Medicaid beneficiary
3 as a result of a referral from an I/T/U facility provider may be
4 eligible for the enhanced federal matching rate of one hundred
5 percent (100%).

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

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

16 3. The Authority shall deposit any shared savings that remain
17 after administrative costs have been fully paid, and after
18 distributions have been made to participating I/T/U facilities, into
19 the I/T/U Shared Savings Revolving Fund created in Section 2 of this
20 act for the purpose of increasing Medicaid provider rates. Monies
21 in the fund shall not be used to replace other general revenues
22 appropriated and funded by the Legislature or other revenues used to
23 support Medicaid.

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

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

18 a. the I/T/U facility practitioner providing a request
19 for specific services by electronic or other
20 verifiable means and relevant information about the
21 practitioner's patient to the non-I/T/U provider,

22 b. the non-I/T/U provider sending information about the
23 care the non-I/T/U provider provides to the patient,
24 including the results of any screening, diagnostic or

1 treatment procedures, to the I/T/U facility
2 practitioner,

3 c. the I/T/U facility practitioner continuing to assume
4 responsibility for the patient's care by assessing the
5 information and taking appropriate action, including,
6 when necessary, furnishing or requesting additional
7 services, and

8 d. the I/T/U facility incorporating the patient's
9 information in the medical record through the
10 statewide health information exchange or other agreed-
11 upon means.

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

18 F. The Authority shall promptly seek any necessary federal
19 approval for the implementation of this act. In the event that any
20 necessary federal approval is not obtained, or in the event funding
21 of Oklahoma Medicaid from state, federal, or other sources is
22 withdrawn, reduced or limited in any way that affects implementation
23 of the I/T/U Shared Savings Program, the I/T/U Shared Savings
24

1 Program may be terminated immediately by the Authority, and no court
2 or tribunal shall have jurisdiction to review such termination.

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

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

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

19 B. An annual report shall be prepared by the Authority's Chief
20 Financial Officer and shall be submitted to the Governor, the
21 President Pro Tempore of the Senate and the Speaker of the House of
22 Representatives no later than thirty (30) days following the end of
23 each State Fiscal Year. The annual report shall account for:

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

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

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

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

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

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

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

21 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
22 February 26, 2020 - DO PASS AS AMENDED
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