

1 ENGROSSED HOUSE
2 BILL NO. 2950

By: Wallace and Hilbert of the
House

3 and

4 Thompson and Hall of the
5 Senate

6
7 An Act relating to ambulance service providers;
8 creating the Ambulance Service Provider Access
9 Payment Program Act; providing short title; defining
10 terms; providing for certain assessment; exempting
11 certain ambulance services; providing assessment
12 methodology; providing for adjusted assessments under
13 certain conditions; voiding program under certain
14 conditions; directing promulgation of rules;
15 providing for administrative penalties; creating
16 Ambulance Service Provider Access Payment Program
17 Fund; providing source of monies; providing for
18 notice of assessment; requiring quarterly payments;
19 providing exception for first installment; providing
20 certain penalty; specifying certain appeals
21 procedures; providing assessment for new provider;
22 providing for ambulance service provider access
23 payments; specifying date and frequency of payments,
24 calculation methodology, and eligibility; prohibiting
offset of certain payments; requiring refund under
certain condition; directing budgeting and
expenditure of monies; stating allowed expense;
prohibiting certain use of monies; providing certain
exemption; stipulating certain lack of guarantee;
providing for certain appeals; specifying that monies
are supplemental; prohibiting certain adjustment of
Medicaid reimbursement; requiring Oklahoma Health
Care Authority to cease collection of fees and refund
providers under certain condition; directing
Authority to seek certain federal approval; requiring
certain actions if approval denied; providing for
codification; and providing an effective date.

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

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 3242.1 of Title 63, unless there
4 is created a duplication in numbering, reads as follows:

5 This act shall be known and may be cited as the "Ambulance
6 Service Provider Access Payment Program Act".

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 3242.2 of Title 63, unless there
9 is created a duplication in numbering, reads as follows:

10 As used in the Ambulance Service Provider Access Payment Program
11 Act:

12 1. "Air ambulance" means ambulance services provided by fixed
13 or rotor wing ambulance services;

14 2. "Alliance" means the Oklahoma Ambulance Alliance or its
15 successor association;

16 3. "Ambulance" means a motor vehicle that is primarily used or
17 designated as available to provide transportation and basic life
18 support or advanced life support;

19 4. "Ambulance service" or "ambulance service provider" means
20 any private firm or governmental agency which is or should be
21 licensed by the State Department of Health to provide levels of
22 medical care based on certification rules or standards promulgated
23 by the State Commissioner of Health;

24 5. "Department" means the State Department of Health;

1 6. "Emergency" or "emergent" means a serious situation or
2 occurrence that happens unexpectedly and demands immediate action,
3 such as a medical condition manifesting itself by acute symptoms of
4 sufficient severity including severe pain such that the absence of
5 immediate medical attention could reasonably be expected, by a
6 reasonable and prudent layperson, to result in placing the patient's
7 health in serious jeopardy, serious impairment to bodily function or
8 serious dysfunction of any bodily organ or part;

9 7. "Emergency transport" means the movement of an acutely ill
10 or injured patient from the scene to a health care facility or the
11 movement of an acutely ill or injured patient from one health care
12 facility to another health care facility;

13 8. "Licensure" means the licensing of emergency ambulance
14 services pursuant to rules and standards promulgated by the State
15 Commissioner of Health;

16 9. "Net operating revenue" means the gross revenues earned for
17 providing emergency and nonemergency transports in Oklahoma
18 excluding revenues earned for providing air ambulance services and
19 amounts refunded to or recouped, offset or otherwise deducted by a
20 patient or payer for ground medical transportation;

21 10. "Nonemergency transport" means the movement of any patient
22 in an ambulance other than an emergency transport;

23 11. "Upper payment limit" means the lesser of the customary
24 charges of the ambulance service provider or the prevailing charges

1 in the locality of the ambulance service provider for comparable
2 services under comparable circumstances, calculated according to
3 methodology in an approved state plan amendment for the state
4 Medicaid program; and

5 12. "Upper payment limit gap" means the difference between the
6 upper payment limit of the ambulance service provider and the
7 Medicaid payments not financed using the ambulance service provider
8 assessments made to all ambulance service providers, provided that
9 the upper payment limit gap shall not include air ambulance
10 services.

11 SECTION 3. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 3242.3 of Title 63, unless there
13 is created a duplication in numbering, reads as follows:

14 A. For the purpose of assuring access to quality emergency and
15 nonemergency transports for state Medicaid beneficiaries, the
16 Oklahoma Health Care Authority shall, after considering input and
17 recommendations from the Oklahoma Ambulance Alliance, assess
18 ambulance service providers licensed in Oklahoma, unless exempt
19 under subsection B of this section, an ambulance service provider
20 access payment program fee.

21 B. The following ambulance services shall be exempt from the
22 ambulance service provider access payment fee:
23
24

1 1. An ambulance service that is owned or operated by the state
2 or a state agency, the federal government, a federally recognized
3 Indian tribe, or the Indian Health Service;

4 2. An ambulance service that is eligible for supplemental
5 Medicaid reimbursement under Section 3242 of Title 63 of the
6 Oklahoma Statutes;

7 3. An ambulance service that provides air ambulance services
8 only; or

9 4. An ambulance service that provides nonemergency transports
10 only or a de minimis amount of emergency medical transportation
11 services, as determined by the Authority.

12 C. 1. The ambulance service provider access payment program
13 fee shall be an assessment imposed on each ambulance service
14 provider, except those exempted under subsection B of this section,
15 for each calendar year in an amount calculated as a percentage of
16 each ambulance service provider's net operating revenue.

17 2. The assessment rate shall be determined annually based upon
18 the percentage of net operating revenue needed to generate an amount
19 up to the sum of:

- 20 a. the nonfederal portion of the upper payment limit gap
21 for all ambulance service providers eligible to
22 receive Medicaid ambulance service provider access
23 payments, plus
24

- b. the annual fee to be paid to the Authority under subparagraph b of paragraph 2 of subsection F of Section 4 of this act, plus
- c. the amount to be transferred by the Authority to the Medical Payments Cash Management Improvement Act Programs Disbursing Fund under subparagraph a of paragraph 2 of subsection F of Section 4 of this act.

In no event shall the assessment rate exceed the maximum rate allowed by federal law or regulation.

3. The assessment rate described in this subsection shall be determined after consultation with the Alliance. The base year for assessment, the method for calculating net operating revenue and related matters not provided for in this section shall be determined by rules promulgated by the Oklahoma Health Care Authority Board.

D. 1. If an ambulance service provider conducts, operates or maintains more than one licensed ambulance service, the ambulance service provider shall pay the ambulance service provider access payment program fee for each ambulance service separately. However, if the ambulance service provider operates more than one ambulance service under one Medicaid provider number, the ambulance service provider may pay the fee for the ambulance services in the aggregate.

2. Notwithstanding any other provision of this section, if an ambulance service provider subject to the ambulance service provider

1 access payment fee operates or conducts business only for a portion
2 of a year, the assessment for the year shall be adjusted by
3 multiplying the annual assessment by a fraction, the numerator of
4 which is the number of days in the year during which the ambulance
5 service operates and the denominator of which is three hundred
6 sixty-five (365). Immediately upon ceasing to operate, the
7 ambulance service provider shall pay the assessment for the year as
8 so adjusted, to the extent not previously paid.

9 3. The Authority shall determine the assessment for new
10 ambulance services and ambulance services that undergo a change of
11 ownership, in accordance with this section, using the best available
12 information, as determined by the Authority.

13 E. 1. In the event that federal financial participation
14 pursuant to Title XIX of the Social Security Act is not available to
15 the state Medicaid program for purposes of matching expenditures
16 from the Ambulance Service Provider Access Payment Program Fund at
17 the approved federal medical assistance percentage for the
18 applicable year, the ambulance service provider access payment
19 program fee shall be null and void as of the date of the
20 nonavailability of such federal funding through and during any
21 period of nonavailability.

22 2. In the event of an invalidation of the Ambulance Service
23 Provider Access Payment Program by any court of last resort, the
24

1 program shall be null and void as of the effective date of that
2 invalidation.

3 3. In the event that the Ambulance Service Provider Access
4 Payment Program is determined to be null and void for any of the
5 reasons described in this subsection, any ambulance service provider
6 access payment program fee assessed and collected for any period to
7 which such invalidation applies shall be returned in full within
8 forty-five (45) days by the Authority to the ambulance service from
9 which it was collected.

10 F. The Oklahoma Health Care Authority Board, after considering
11 the input and recommendations of the Alliance, shall promulgate
12 rules for the implementation and enforcement of the ambulance
13 service provider access payment program fee. Unless otherwise
14 provided, the rules promulgated under this subsection shall not
15 grant any exceptions to or exemptions from the ambulance service
16 provider access payment program fee imposed under this section.

17 G. The Authority shall provide for administrative penalties in
18 the event an ambulance service provider fails to:

- 19 1. Submit the ambulance service provider access payment program
20 fee;
- 21 2. Submit the fee in a timely manner;
- 22 3. Submit reports as required by the Authority; or
- 23 4. Submit reports timely.

24

1 H. The Oklahoma Health Care Authority Board shall have the
2 power to promulgate emergency rules to implement the provisions of
3 the Ambulance Service Provider Access Payment Program Act.

4 SECTION 4. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 3242.4 of Title 63, unless there
6 is created a duplication in numbering, reads as follows:

7 A. There is hereby created in the State Treasury a revolving
8 fund to be designated the "Ambulance Service Provider Access Payment
9 Program Fund".

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

12 1. All monies received by the Oklahoma Health Care Authority
13 from ambulance services pursuant to the Ambulance Service Provider
14 Access Payment Program Act and otherwise specified or authorized by
15 law;

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

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

20 C. 1. The Authority shall send a notice of assessment to each
21 ambulance service provider informing the ambulance service provider
22 of the assessment rate, the ambulance service provider's net
23 operating revenue calculation, and the assessment amount owed by the
24 ambulance service provider for the applicable year.

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

4 3. The first notice of assessment shall be sent within forty-
5 five (45) days after receipt by the Authority of notification from
6 the Centers for Medicare and Medicaid Services that assessments and
7 payments required under the Ambulance Service Provider Access
8 Payment Program Act and, if necessary, the waiver granted under 42
9 C.F.R., Section 433.68 have been approved.

10 4. The ambulance service provider shall have thirty (30) days
11 from the date of its receipt of a notice of assessment to review and
12 verify the assessment rate, the ambulance service provider's net
13 operating revenue calculation and the assessment amount.

14 D. 1. The annual assessment imposed under Section 3 of this
15 act shall be due and payable on a quarterly basis. However, the
16 first installment payment of an assessment imposed by the Ambulance
17 Service Provider Access Payment Program Act shall not be due and
18 payable until:

- 19 a. the Authority issues written notice stating that the
20 assessment and payment methodologies required under
21 the Ambulance Service Provider Access Payment Program
22 Act have been approved by Centers for Medicare and
23 Medicaid Services and the waiver under 42 C.F.R.,
24

1 Section 433.68, if necessary, has been granted by the
2 Centers for Medicare and Medicaid Services,

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

6 c. the Authority issues a notice giving a due date for
7 the first payment.

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

12 3. If an ambulance service provider fails to timely pay the
13 full amount of a quarterly assessment, the Authority shall add to
14 the assessment:

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

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

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

8 5. An ambulance service provider subject to the assessment
9 under the Ambulance Service Provider Access Payment Program Act that
10 has not been previously licensed as an ambulance service in Oklahoma
11 and that commences operations during a year shall pay the required
12 assessment computed under Section 3 of this act and shall be
13 eligible for ambulance service provider access payments under this
14 section on the date specified in the rules promulgated by the
15 Authority after consideration of input and recommendations of the
16 Oklahoma Ambulance Alliance.

17 E. 1. To preserve the quality and improve access to ambulance
18 services rendered on or after the effective date of this act, the
19 Authority shall make ambulance service provider access payments as
20 set forth in this section.

21 2. The Authority shall pay all quarterly ambulance service
22 provider access payments within ten (10) calendar days of the due
23 date for quarterly assessment payments established in subsection D
24 of this section.

1 3. The Authority shall calculate the ambulance service provider
2 access payment amount as the balance of the Ambulance Service
3 Provider Access Payment Program Fund plus any federal matching funds
4 earned on the balance up to, but not to exceed, the upper payment
5 limit gap for all ambulance service providers.

6 4. All ambulance service providers shall be eligible for
7 ambulance service provider access payments each year as set forth in
8 this subsection except ambulance services excluded or exempted in
9 subsection B of Section 3 of this act.

10 5. Access payments shall be made on a quarterly basis.

11 6. Ambulance service provider access payments shall not be used
12 to offset any other payment by Medicaid for services to Medicaid
13 beneficiaries.

14 7. If the Centers for Medicare and Medicaid Services finds that
15 the Authority has made payments to ambulance service providers that
16 exceed the upper payment limits, ambulance service providers shall
17 refund to the Authority a share of the recouped federal funds that
18 is proportionate to the ambulance services' contribution to the
19 upper payment limit.

20 F. 1. All monies accruing to the credit of the Ambulance
21 Service Provider Access Payment Program Fund are hereby appropriated
22 and shall be budgeted and expended by the Authority after
23 consideration of the input and recommendation of the Alliance.
24

1 2. Monies in the Ambulance Service Provider Access Payment
2 Program Fund shall be used only for:

- 3 a. transfers to the Medical Payments Cash Management
4 Improvement Act Programs Disbursing Fund for the state
5 share of ambulance service provider access payments
6 for ambulance service providers that participate in
7 the assessment,
- 8 b. transfers to the Administrative Revolving Fund for the
9 state share of payment of administrative expenses
10 incurred by the Authority or its agents and employees
11 in performing the activities authorized by the
12 Ambulance Service Provider Access Payment Program Act
13 but not more than Two Hundred Thousand Dollars
14 (\$200,000.00) each year, and
- 15 c. the reimbursement of monies collected by the Authority
16 from ambulance services through error or mistake in
17 performing the activities authorized under the
18 Ambulance Service Provider Access Payment Program Act.

19 3. The Authority shall pay from the Ambulance Service Provider
20 Access Payment Program Fund quarterly installment payments to
21 ambulance service providers of amounts available for ambulance
22 service provider access payments.

23 4. Monies in the Ambulance Service Provider Access Payment
24 Program Fund shall not be used to replace other general revenues

1 appropriated and funded by the Legislature or other revenues used to
2 support Medicaid.

3 5. The Ambulance Service Provider Access Payment Program Fund
4 and the program specified in the Ambulance Service Provider Access
5 Payment Program Act are exempt from budgetary reductions or
6 eliminations caused by the lack of general revenue funds or other
7 funds designated for or appropriated to the Authority.

8 6. No ambulance service provider shall be guaranteed, expressly
9 or otherwise, that any additional costs reimbursed to the provider
10 will equal or exceed the amount of the ambulance service provider
11 access payment program fee paid by the ambulance service.

12 G. After considering input and recommendations from the
13 Alliance, the Oklahoma Health Care Authority Board shall promulgate
14 rules that:

15 1. Allow for an appeal of the annual assessment of the
16 Ambulance Service Provider Access Payment Program payable under this
17 act; and

18 2. Allow for an appeal of an assessment of any fees or
19 penalties determined.

20 SECTION 5. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 3242.5 of Title 63, unless there
22 is created a duplication in numbering, reads as follows:

23 A. The ambulance service provider access payment program fee is
24 to supplement, not supplant, appropriations to support ambulance

1 service provider reimbursement. If Medicaid reimbursement rates to
2 providers are adjusted, ambulance service provider rates shall not
3 be adjusted less favorably than the average percentage-rate
4 reduction or increase applicable to the majority of other provider
5 groups.

6 B. Notwithstanding any other provision of the Ambulance Service
7 Provider Access Payment Program Act, if, after receipt of
8 authorization to receive federal matching funds for monies generated
9 by the Ambulance Service Provider Access Payment Program Act, the
10 authorization is withdrawn or changed so that federal matching funds
11 are no longer available, the Oklahoma Health Care Authority shall
12 cease collecting the provider fee and shall repay to the ambulance
13 services any money received by the Ambulance Service Provider Access
14 Payment Program that is not subject to federal matching funds.

15 SECTION 6. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 3242.6 of Title 63, unless there
17 is created a duplication in numbering, reads as follows:

18 A. The Oklahoma Health Care Authority shall submit to the
19 Oklahoma Ambulance Alliance a proposed state plan amendment to
20 implement the requirements of the Ambulance Service Provider Access
21 Payment Program Act including the payment of ambulance service
22 provider access payments under Section 4 of this act no later than
23 forty-five (45) days after the effective date of this act and shall
24 submit the state plan amendment to the Centers for Medicare and

1 Medicaid Services after consideration of the input and
2 recommendations of the Alliance.

3 B. If the state plan amendment is not approved by the Centers
4 for Medicare and Medicaid Services, the Authority shall:

5 1. Not implement the assessment imposed under the Ambulance
6 Service Provider Access Payment Program Act; and

7 2. Return any fees to ambulance services that paid the fees if
8 any such fees have been collected.

9 SECTION 7. This act shall become effective November 1, 2021.

10 Passed the House of Representatives the 18th day of May, 2021.

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Presiding Officer of the House
of Representatives

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Passed the Senate the ____ day of _____, 2021.

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Presiding Officer of the Senate

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