

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

COMMITTEE SUBSTITUTE
FOR

SENATE BILL 1419

By: Gollihare

COMMITTEE SUBSTITUTE

An Act relating to home care; defining terms; directing the Oklahoma Health Care Authority to establish certain program subject to certain conditions; stating qualification criteria for program; requiring certain compliance with laws and rules; authorizing and limiting performance of skilled care tasks; directing certain reimbursement of home care services; requiring certain agencies to coordinate for implementation; directing promulgation of rules; requiring application for certain federal approval; amending 63 O.S. 2021, Section 1-1961, which relates to definitions used in the Home Care Act; modifying definition; amending 63 O.S. 2021, Section 1-1964, which relates to rules promulgated under the Home Care Act; requiring rules to include certain scope of practice standards and restrictions; requiring State Commissioner of Health to consider certain advice; updating statutory language; 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 5013.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1 1. "Family member" means a child, parent, parent-in-law,
2 sibling, grandparent, grandchild, spouse, or any other individual
3 related by blood, and any other individual with a close association
4 that is the equivalent of a family relationship; and

5 2. "Home care agency", "home care services", "home health
6 aide", and "skilled care" have the same meanings as provided by
7 Section 1-1961 of Title 63 of the Oklahoma Statutes.

8 B. No later than one year after the effective date of this act
9 and subject to receipt of federal approval for the program, the
10 Oklahoma Health Care Authority shall establish a program under which
11 a family member of a Medicaid enrollee may be certified as a home
12 health aide by the State Department of Health and, after receiving
13 such certification, may, under the direction and supervision of a
14 registered nurse or licensed practical nurse, provide home care
15 services to the enrollee through a licensed home care agency under
16 the reimbursement rates established under subsection F of this
17 section, provided that the enrollee qualifies for such services
18 under the state Medicaid program.

19 C. The program established under this section shall require the
20 family member to complete:

21 1. A criminal history background check under Section 1-1950.1
22 of Title 63 of the Oklahoma Statutes; and

23 2. All the training, competency evaluation, and other
24 qualification criteria provided by law or rule for certification as

1 a home health aide including, but not limited to, qualification
2 criteria established under the Home Care Act.

3 D. 1. Upon certification as a home health aide, the family
4 member shall comply with all laws and rules applicable to home
5 health aides including, but not limited to, the Home Care Act and
6 rules promulgated by the State Commissioner of Health.

7 2. A licensed home care agency participating in the program
8 established under this section shall comply with all laws and rules
9 applicable to home care agencies including, but not limited to, the
10 Home Care Act and rules promulgated by the Commissioner.

11 E. Home care services provided by a family member certified as
12 a home health aide under this section may include skilled care
13 tasks, subject to the scope of practice standards and restrictions
14 established by the Commissioner under Section 1-1964 of Title 63 of
15 the Oklahoma Statutes and all other requirements and limitations
16 prescribed by law or rule. The home health aide may only perform
17 skilled care tasks for his or her family member who is a Medicaid
18 enrollee and for whom the home health aide is receiving or will
19 receive reimbursement under subsection F of this section.

20 F. Home care services provided by a family member of a Medicaid
21 enrollee who becomes certified as a home health aide under the
22 program established under this section shall be reimbursed to a home
23 care agency at a rate established by the Authority.

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1 G. 1. The Authority and the Department shall coordinate and
2 share information as necessary to implement this section.

3 2. The Oklahoma Health Care Authority Board and the
4 Commissioner shall promulgate rules as necessary to implement this
5 section.

6 3. The Administrator of the Authority shall apply for such
7 state plan amendments or waivers as may be necessary to implement
8 this section and to secure federal financial participation for state
9 Medicaid expenditures under the federal Medicaid program.

10 SECTION 2. AMENDATORY 63 O.S. 2021, Section 1-1961, is
11 amended to read as follows:

12 Section 1-1961. As used in the Home Care Act:

13 1. "Board" means the State Board of Health;

14 2. "Certification" means verification of appropriate training
15 and competence established by the State Commissioner of Health by
16 rules promulgated pursuant to the Home Care Act for home health
17 aides and home care agency administrators;

18 3. "Department" means the State Department of Health;

19 4. ~~"Healthcare~~ "Health care provider" means a physician,
20 physician assistant or Advanced Practice Registered Nurse recognized
21 by the Oklahoma Board of Nursing as a Certified Nurse Practitioner
22 or a Clinical Nurse Specialist;

23 5. "Home care agency" means any sole proprietorship,
24 partnership, association, corporation or other organization which

1 administers, offers or provides home care services, for a fee or
2 pursuant to a contract for such services, to clients in their place
3 of residence. The term ~~"home care agency"~~ home care agency shall
4 not include:

5 a. individuals who contract with the Department of Human
6 Services to provide personal care services, provided
7 such individuals shall not be exempt from
8 certification as home health aides,

9 b. organizations that contract with the Oklahoma Health
10 Care Authority as Intermediary Services Organizations
11 (ISO) to provide federal Internal Revenue Service
12 fiscal and supportive services to Consumer-Directed
13 Personal Assistance ~~Supports and Services~~ and Supports
14 (CD-PASS) waiver program participants who have
15 employer responsibility for hiring, training,
16 directing and managing an individual personal care
17 attendant, or

18 c. CD-PASS waiver program employer participants;

19 6. "Home care services" means skilled or personal care services
20 provided to clients in their place of residence for a fee;

21 7. "Home health aide" means an individual who provides personal
22 care to clients in their temporary or permanent place of residence
23 for a fee;

1 8. "Home care agency administrator" means a person who
2 operates, manages, or supervises, or is in charge of a home care
3 agency;

4 9. "Personal care" means assistance with dressing, bathing,
5 ambulation, exercise or other personal needs;

6 10. "Skilled care" means home care services performed on a
7 regular basis by:

8 a. a trained ~~Respiratory Therapist/Technician~~ or by
9 respiratory therapist/technician,

10 b. a person currently licensed by this state including
11 but not limited to a Licensed Practical Nurse,
12 Registered Nurse, ~~Physical Therapist~~ physical
13 therapist, ~~Occupational Therapist~~ occupational
14 therapist, ~~Speech Therapist~~ speech therapist, or
15 ~~Social Worker~~ social worker, or

16 c. for the exclusive purpose of the program established
17 under Section 1 of this act and subject to the scope
18 of practice standards and restrictions established
19 under Section 1-1964 of this title, a family member of
20 a Medicaid enrollee who is certified as a home health
21 aide;

22 11. "Standby assistance" means supervision of client directed
23 activities with verbal prompting and infrequent, incidental hands-on
24 intervention only; and

1 12. "Supportive home assistant" means an individual employed by
2 a home care agency who provides standby assistance to ambulatory
3 clients, in conjunction with other companionship or homemaker
4 services, in the temporary or permanent place of residence of the
5 client for a fee.

6 SECTION 3. AMENDATORY 63 O.S. 2021, Section 1-1964, is
7 amended to read as follows:

8 Section 1-1964. The State Commissioner of Health shall
9 promulgate rules necessary to implement the provisions of the Home
10 Care Act. Such rules shall include, but shall not be limited to:

11 1. Minimum standards for home care services. In establishing
12 such standards, the Commissioner shall consider those standards
13 adopted by state and national home care associations;

14 2. Requirements for the certification and renewal certification
15 of home health aides and home care agency administrators;

16 3. Provisions for transfer of ownership of a licensed agency;

17 4. A requirement that each licensed agency create and disclose
18 to its clients a statement of clients' rights and responsibilities;

19 5. Establishing continuing education requirements for renewal
20 of certifications for home care agency administrators;

21 6. Requirements for financial resources to ensure a home care
22 agency's ability to provide adequate home care services;

23 7. Standards for assessing an applicant's business and
24 professional experience as demonstrated in prior health care

1 provider operations including, but not limited to, nursing homes,
2 residential care homes, and home care and in previous compliance
3 with all lawful orders of suspension, receivership, administrative
4 penalty or sanction issued by the State Department of Health or by
5 other administrative agencies in other states with similar
6 responsibilities;

7 8. Restrictions on any agency, agency employee, or agency
8 contractor providing skilled care or conducting an in-home
9 assessment of the need for skilled care unless and until the agency
10 receives a ~~healthcare~~ health care provider's order to provide
11 skilled care or to conduct an in-home assessment of the need for
12 skilled care; provided, however, such restrictions shall not prevent
13 an agency from providing personal care to a client without a
14 ~~healthcare~~ health care provider's order. Provided further, such
15 restrictions shall not apply to in-home assessments of home and
16 community-based waiver clients in the state Medicaid program;

17 9. For the exclusive purpose of the program established under
18 Section 1 of this act, scope of practice standards and restrictions
19 for skilled care provided to a Medicaid enrollee by a family member
20 who is certified as a home health aide. In establishing such
21 standards and restrictions, the Commissioner shall consider the
22 advice of the Oklahoma Health Care Authority;
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1 10. Restrictions on any agency, agency employee, or agency
2 contractor soliciting, coercing, or harassing a consumer of home
3 care services or who may need home care services; and

4 ~~10.~~ 11. Standards or other provisions which do not conflict
5 with any federal requirements relating to the federal Medicaid and
6 Medicare programs.

7 SECTION 4. This act shall become effective July 1, 2024.

8 SECTION 5. It being immediately necessary for the preservation
9 of the public peace, health or safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

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