

SENATE FLOOR VERSION

February 28, 2024

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 1419

By: Gollihare of the Senate

and

Boatman of the House

[home care - program - tasks - reimbursement - rules
- application - Home Care Act - State Commissioner of
Health - 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 5013.2 of Title 63, unless there
is created a duplication in numbering, reads as follows:

A. As used in this section:

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

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

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

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

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

16 2. All the training, competency evaluation, and other
17 qualification criteria provided by law or rule for certification as
18 a home health aide including, but not limited to, qualification
19 criteria established under the Home Care Act.

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

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

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

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

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

20 2. The Oklahoma Health Care Authority Board and the
21 Commissioner shall promulgate rules as necessary to implement this
22 section.

23 3. The Administrator of the Authority shall apply for such
24 state plan amendments or waivers as may be necessary to implement

1 this section and to secure federal financial participation for state
2 Medicaid expenditures under the federal Medicaid program.

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

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

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

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

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

12 4. ~~"Healthcare"~~ "Health care provider" means a physician,
13 physician assistant or Advanced Practice Registered Nurse recognized
14 by the Oklahoma Board of Nursing as a Certified Nurse Practitioner
15 or a Clinical Nurse Specialist;

16 5. "Home care agency" means any sole proprietorship,
17 partnership, association, corporation or other organization which
18 administers, offers or provides home care services, for a fee or
19 pursuant to a contract for such services, to clients in their place
20 of residence. The term ~~"home care agency"~~ home care agency shall
21 not include:

22 a. individuals who contract with the Department of Human
23 Services to provide personal care services, provided
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1 such individuals shall not be exempt from
2 certification as home health aides,

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

12 c. CD-PASS waiver program employer participants;

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

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

18 8. "Home care agency administrator" means a person who
19 operates, manages, or supervises, or is in charge of a home care
20 agency;

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

23 10. "Skilled care" means home care services performed on a
24 regular basis by:

- 1 a. a trained ~~Respiratory Therapist/Technician or by~~
2 respiratory therapist/technician,
3 b. a person currently licensed by this state including
4 but not limited to a Licensed Practical Nurse,
5 Registered Nurse, ~~Physical Therapist~~ physical
6 therapist, ~~Occupational Therapist~~ occupational
7 therapist, ~~Speech Therapist~~ speech therapist, or
8 ~~Social Worker~~ social worker, or
9 c. for the exclusive purpose of the program established
10 under Section 1 of this act and subject to the scope
11 of practice standards and restrictions established
12 under Section 1-1964 of this title, a family member of
13 a Medicaid enrollee who is certified as a home health
14 aide;

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

18 12. "Supportive home assistant" means an individual employed by
19 a home care agency who provides standby assistance to ambulatory
20 clients, in conjunction with other companionship or homemaker
21 services, in the temporary or permanent place of residence of the
22 client for a fee.

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

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

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

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

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

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

12 5. Establishing continuing education requirements for renewal
13 of certifications for home care agency administrators;

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

16 7. Standards for assessing an applicant's business and
17 professional experience as demonstrated in prior health care
18 provider operations including, but not limited to, nursing homes,
19 residential care homes, and home care and in previous compliance
20 with all lawful orders of suspension, receivership, administrative
21 penalty or sanction issued by the State Department of Health or by
22 other administrative agencies in other states with similar
23 responsibilities;

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

11 9. For the exclusive purpose of the program established under
12 Section 1 of this act, scope of practice standards and restrictions
13 for skilled care provided to a Medicaid enrollee by a family member
14 who is certified as a home health aide. In establishing such
15 standards and restrictions, the Commissioner shall consider the
16 advice of the Oklahoma Health Care Authority;

17 10. Restrictions on any agency, agency employee, or agency
18 contractor soliciting, coercing, or harassing a consumer of home
19 care services or who may need home care services; and

20 ~~10.~~ 11. Standards or other provisions which do not conflict
21 with any federal requirements relating to the federal Medicaid and
22 Medicare programs.

23 SECTION 4. This act shall become effective July 1, 2024.
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1 SECTION 5. It being immediately necessary for the preservation
2 of the public peace, health or safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

5 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
6 February 28, 2024 - DO PASS
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