

1 ENGROSSED HOUSE
2 BILL NO. 2797

By: Caldwell (Trey) and Kane of
the House

3 and

4 Hall and Haste of the
5 Senate

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8 An Act relating to the Oklahoma Health Care
9 Authority; defining terms; prohibiting use of certain
10 methodology by the Oklahoma Health Care Authority;
11 nullifying results from certain audits using specific
12 methodology; specifying certain time periods;
13 prohibiting certain actions with respect to
14 repayments or penalties; requiring compliance with
15 respect to fraud reporting; requiring joint
16 collaboration between the Oklahoma Department of
17 Mental Health and Substance Abuse Services and the
18 Department of Human Services; requiring training
19 materials for certain presentation; amending 56 O.S.
20 2021, Section 1020, which relates to duties of the
21 Oklahoma Department of Human Services; specifying
22 certain duties with respect to the Oklahoma Health
23 Care Authority; providing for codification; and
24 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 1011.9A of Title 56, unless
there is created a duplication in numbering, reads as follows:

A. As used in this section:

1 1. "Error rate" means the percentage of dollars of audited
2 claims found to be billed in error;

3 2. "Extrapolation" means the methodology of estimating an
4 unknown value by projecting, with a calculated precision, i.e.,
5 margin of error, the results of a probability sample to the universe
6 from which the sample was drawn;

7 3. "Probability sample" means the standard statistical
8 methodology in which a sample is selected based on the mathematical
9 theory of probability;

10 4. "Sample" means a statistically valid number of claims
11 obtained from the universe of claims audited or reviewed; and

12 5. "Universe" means all paid claims or types of paid claims
13 audited or reviewed during a specified time frame.

14 B. For claims payable to providers of Medicaid home and
15 community-based services submitted on or after January 27, 2020, but
16 not later than November 1, 2027, the Oklahoma Health Care Authority
17 shall not use:

18 1. Extrapolation or any other statistical method for the
19 auditing of such claims that can result in a determination that a
20 provider is required to repay any amount paid to such provider in
21 excess of the amount of the audited claim, regardless of the claims
22 error rate; or
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1 2. Statistical sampling to audit submitted claims in a manner
2 that can result in a liability amount in excess of the total amount
3 of claims used in a statistical sample.

4 C. The use by the Oklahoma Health Care Authority of any
5 methodology as described in subsection A of this section prior to
6 the effective date of this act, and which was performed pursuant to
7 the provisions of Oklahoma Administrative Code 317:30-3-2.1 with
8 respect to an audit period beginning on or after January 27, 2020,
9 through November 1, 2025, shall be deemed as invalid and any demand
10 for payment made to a provider on the basis of such methodology
11 shall be null and void. The Oklahoma Health Care Authority shall
12 not have authority to make any demand for repayment from a provider
13 with respect to an audit the effect of which has been nullified
14 pursuant to the provisions of this subsection or to impose a
15 financial penalty upon such provider with respect to any such audit.

16 D. The Oklahoma Health Care Authority shall comply with the
17 requirements of Section 249 of Title 56 of the Oklahoma Statutes
18 with respect to the reporting of alleged fraud.

19 E. The Oklahoma Health Care Authority and the Department of
20 Human Services shall work in conjunction to develop and refine an
21 audit methodology with respect to claims submitted for payment by
22 providers in the Home and Community Based Waivers related programs.
23 The agencies shall develop an information and training program so
24 that affected providers and their authorized agents have an

1 opportunity to become familiar with the audit standards and have a
2 clear and consistent set of guidelines with respect to the claims
3 submission process and any possible audit activity. The joint
4 program shall be complete and ready for presentation to providers
5 and their authorized agents not later than November 1, 2027.

6 SECTION 2. AMENDATORY 56 O.S. 2021, Section 1020, is
7 amended to read as follows:

8 Section 1020. A. The Director of the Department of Human
9 Services shall, within the constraints of funding appropriated to
10 the Department, establish and maintain a community-based program of
11 services that includes, but is not limited to, establishment of
12 foster care and supported living arrangements for persons affected
13 by Prader-Willi syndrome. The purpose of this section of law shall
14 be to improve the quality of life of persons with developmental
15 disabilities and to integrate such persons into the mainstream of
16 society by ensuring availability of community services.

17 B. The programs established pursuant to this section shall be
18 administered by the Developmental Disabilities Service Division.
19 The Commission for Human Services shall promulgate rules for the
20 operation of community-based programs for persons with developmental
21 disabilities including, but not limited to, rules regarding the
22 delivery of:

23 1. Health-related services. As used in this section, health-
24 related services means services provided by community services

1 providers or community services workers to persons with
2 developmental disabilities, and includes, but is not limited to:

- 3 a. personal hygiene,
- 4 b. transferring,
- 5 c. range of motion,
- 6 d. supervision or assistance with activities of daily
7 living,
- 8 e. basic nursing care, such as taking the person's
9 temperature, pulse or respiration, positioning,
10 incontinent care, and identification of signs and
11 symptoms of disease. Certain tasks that may be
12 performed as basic nursing care by community services
13 workers require appropriate training provided or
14 approved by the Department, written agreement by the
15 service recipient's personal support team, and the
16 primary care physician's acknowledgment and specific
17 order related to the task. Under such circumstances,
18 basic nursing care may include, but need not be
19 limited to:

- 20 (1) nutrition, including meals by gastrostomy tube or
21 jejunostomy tube,
- 22 (2) blood glucose monitoring,
- 23 (3) ostomy bag care,
- 24 (4) oral suctioning, and

1 (5) administration of oral metered dose inhalers and
2 nebulizers;

3 2. Supportive assistance, which means the service rendered to
4 persons with developmental disabilities that is sufficient to enable
5 such person to meet an adequate level of daily living. Supportive
6 assistance includes, but is not limited to, training and supervision
7 of persons with developmental disabilities, assistance in
8 housekeeping, assistance in the preparation of meals, and assistance
9 in activities of daily living as necessary for the health and
10 comfort of persons with developmental disabilities; and

11 3. Safe storage and administration of medications, first aid
12 treatments and nutrition by oral, rectal, vaginal, otic, ophthalmic,
13 nasal, skin, topical, transdermal and gastrostomy tube routes by
14 community service workers who have successfully completed
15 competency-based training approved by the Department.

16 C. The Department shall undertake to identify and utilize any
17 and all federal funding which may be available for such services.

18 D. The Department is authorized to accept any gift of real or
19 personal property made for the use or benefit of any program or
20 services established pursuant to this section. Such gift may only
21 be utilized for the purpose or purposes for which it is given.

22 E. The Department shall be the agency responsible for annual
23 performance audits of community-based services provided through Home
24 and Community-Based Medicaid Waivers. The Oklahoma Health Care

1 Authority (OHCA) shall be responsible for auditing claims to confirm
2 that the services billed by contract providers have been delivered
3 per requirements from the Centers for Medicare and Medicaid Services
4 (CMS).

5 SECTION 3. It being immediately necessary for the preservation
6 of the public peace, health or safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

9 Passed the House of Representatives the 20th day of May, 2025.

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Presiding Officer of the House
of Representatives

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Passed the Senate the ____ day of _____, 2025.

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Presiding Officer of the Senate

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