

An Act

ENROLLED HOUSE
BILL NO. 2797

By: Caldwell (Trey) and Kane of
the House

and

Hall and Haste of the
Senate

An Act relating to the Oklahoma Health Care Authority; defining terms; prohibiting use of certain methodology by the Oklahoma Health Care Authority; nullifying results from certain audits using specific methodology; specifying certain time periods; prohibiting certain actions with respect to repayments or penalties; requiring compliance with respect to fraud reporting; requiring joint collaboration between the Oklahoma Department of Mental Health and Substance Abuse Services and the Department of Human Services; requiring training materials for certain presentation; amending 56 O.S. 2021, Section 1020, which relates to duties of the Oklahoma Department of Human Services; specifying certain duties with respect to the Oklahoma Health Care Authority; providing for codification; and declaring an emergency.

SUBJECT: Oklahoma Health Care Authority

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

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

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

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

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

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

1. Extrapolation or any other statistical method for the auditing of such claims that can result in a determination that a provider is required to repay any amount paid to such provider in excess of the amount of the audited claim, regardless of the claims error rate; or

2. Statistical sampling to audit submitted claims in a manner that can result in a liability amount in excess of the total amount of claims used in a statistical sample.

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

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

E. The Oklahoma Health Care Authority and the Department of Human Services shall work in conjunction to develop and refine an audit methodology with respect to claims submitted for payment by providers in the Home and Community Based Waivers related programs. The agencies shall develop an information and training program so that affected providers and their authorized agents have an opportunity to become familiar with the audit standards and have a clear and consistent set of guidelines with respect to the claims submission process and any possible audit activity. The joint program shall be complete and ready for presentation to providers and their authorized agents not later than November 1, 2027.

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

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

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

1. Health-related services. As used in this section, health-related services means services provided by community services providers or community services workers to persons with developmental disabilities, and includes, but is not limited to:

- a. personal hygiene,
- b. transferring,

- c. range of motion,
- d. supervision or assistance with activities of daily living,
- e. basic nursing care, such as taking the person's temperature, pulse or respiration, positioning, incontinent care, and identification of signs and symptoms of disease. Certain tasks that may be performed as basic nursing care by community services workers require appropriate training provided or approved by the Department, written agreement by the service recipient's personal support team, and the primary care physician's acknowledgment and specific order related to the task. Under such circumstances, basic nursing care may include, but need not be limited to:
 - (1) nutrition, including meals by gastrostomy tube or ~~jejunostomy~~ jejunostomy tube,
 - (2) blood glucose monitoring,
 - (3) ostomy bag care,
 - (4) oral suctioning, and
 - (5) administration of oral metered dose inhalers and nebulizers;

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

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

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

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

E. The Department shall be the agency responsible for annual performance audits of community-based services provided through Home and Community-Based Medicaid Waivers. The Oklahoma Health Care Authority (OHCA) shall be responsible for auditing claims to confirm that the services billed by contract providers have been delivered per requirements from the Centers for Medicare and Medicaid Services (CMS).

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

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

Presiding Officer of the House
of Representatives

Passed the Senate the 22nd day of May, 2025.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____