

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 60th Legislature (2025)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2797

By: Caldwell (Trey) and Kane of  
the House

and

Hall and Haste of the  
Senate

11                               COMMITTEE SUBSTITUTE

12           An Act relating to the Oklahoma Health Care  
13           Authority; defining terms; prohibiting use of certain  
14           methodology by the Oklahoma Health Care Authority;  
15           nullifying results from certain audits using specific  
16           methodology; specifying certain time periods;  
17           prohibiting certain actions with respect to  
18           repayments or penalties; requiring compliance with  
19           respect to fraud reporting; requiring joint  
20           collaboration between the Oklahoma Department of  
21           Mental Health and Substance Abuse Services and the  
22           Department of Human Services; requiring training  
23           materials for certain presentation; amending 56 O.S.  
24           2021, Section 2020, 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.

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

1       SECTION 1.       NEW LAW       A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1011.9A of Title 56, unless  
3 there is created a duplication in numbering, reads as follows:  
4       A. As used in this section:  
5       1. "Error rate" means the percentage of dollars of audited  
6 claims found to be billed in error;  
7       2. "Extrapolation" means the methodology of estimating an  
8 unknown value by projecting, with a calculated precision, i.e.,  
9 margin of error, the results of a probability sample to the universe  
10 from which the sample was drawn;  
11       3. "Probability sample" means the standard statistical  
12 methodology in which a sample is selected based on the mathematical  
13 theory of probability;  
14       4. "Sample" means a statistically valid number of claims  
15 obtained from the universe of claims audited or reviewed; and  
16       5. "Universe" means all paid claims or types of paid claims  
17 audited or reviewed during a specified timeframe.  
18       B. For claims payable to providers of Medicaid home and  
19 community-based services submitted on or after January 27, 2020, but  
20 not later than November 1, 2027, the Oklahoma Health Care Authority  
21 shall not use:  
22       1. Extrapolation or any other statistical method for the  
23 auditing of such claims that can result in a determination that a  
24 provider is required to repay any amount paid to such provider in

1 excess of the amount of the audited claim, regardless of the claims  
2 error rate; or

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

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

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

21 E. The Oklahoma Health Care Authority and the Department of  
22 Human Services shall work in conjunction to develop and refine an  
23 audit methodology with respect to claims submitted for payment by  
24 providers in the Home and Community Based Waivers related programs.

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

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

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

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

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

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

- 22            (1) nutrition, including meals by gastrostomy tube or  
23                jejunostomy tube,
- 24            (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.

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

8       SECTION 3. 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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13 COMMITTEE REPORT BY: COMMITTEE ON JOINT COMMITTEE ON APPROPRIATIONS  
14 AND BUDGET, dated 05/19/2025 - DO PASS, As Amended.  
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