

SENATE FLOOR VERSION

February 24, 2025

SENATE BILL NO. 947

By: Rosino of the Senate

and

Gise of the House

An Act relating to long-term care; amending 56 O.S. 2021, Section 2002, which relates to the Nursing Facilities Quality of Care Fee; updating statutory language; amending 63 O.S. 2021, Section 1-2216, as amended by Section 17, Chapter 339, O.S.L. 2024 (63 O.S. Supp. 2024, Section 1-2216), which relates to the Oklahoma State Council on Aging and Adult Protective Services; updating statutory language; and declaring an emergency.

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

SECTION 1. AMENDATORY 56 O.S. 2021, Section 2002, is amended to read as follows:

Section 2002. A. For the purpose of providing quality care enhancements, the Oklahoma Health Care Authority is authorized to and shall assess a Nursing Facilities Quality of Care Fee pursuant to this section upon each nursing facility licensed in this state. Facilities operated by the Oklahoma Department of Veterans Affairs shall be exempt from this fee. Quality of care enhancements

1 include, but are not limited to, the purposes specified in this
2 section.

3 B. As a basis for determining the Nursing Facilities Quality of
4 Care Fee assessed upon each licensed nursing facility, the Authority
5 shall calculate a uniform per-patient day rate. The rate shall be
6 calculated by dividing six percent (6%) of the total annual patient
7 gross receipts of all licensed nursing facilities in this state by
8 the total number of patient days for all licensed nursing facilities
9 in this state. The result shall be the per-patient day rate.

10 Beginning July 15, 2004, the Nursing Facilities Quality of Care Fee
11 shall not be increased unless specifically authorized by the
12 Legislature.

13 C. Pursuant to any approved Medicaid waiver and pursuant to
14 subsection N of this section, the Nursing Facilities Quality of Care
15 Fee shall not exceed the amount or rate allowed by federal law for
16 nursing home licensed bed days.

17 D. The Nursing Facilities Quality of Care Fee owed by a
18 licensed nursing facility shall be calculated by the Authority by
19 adding the daily patient census of a licensed nursing facility, as
20 reported by the facility for each day of the month, and by
21 multiplying the ensuing figure by the per-patient day rate
22 determined pursuant to the provisions of subsection B of this
23 section.

1 E. Each licensed nursing facility which is assessed the Nursing
2 Facilities Quality of Care Fee shall be required to file a report on
3 a monthly basis with the Authority detailing the daily patient
4 census and patient gross receipts at such time and in such manner as
5 required by the Authority.

6 F. 1. The Nursing Facilities Quality of Care Fee for a
7 licensed nursing facility for the period beginning October 1, 2000,
8 shall be determined using the daily patient census and annual
9 patient gross receipts figures reported to the Authority for the
10 calendar year 1999 upon forms supplied by the Authority.

11 2. Annually the Nursing Facilities Quality of Care Fee shall be
12 determined by:

- 13 a. using the daily patient census and patient gross
14 receipts reports received by the Authority for the
15 most recent available twelve (12) months, and
- 16 b. annualizing those figures.

17 Each year thereafter, the annualization of the Nursing
18 Facilities Quality of Care Fee specified in this paragraph shall be
19 subject to the limitation in subsection B of this section unless the
20 provision of subsection C of this section is met.

21 G. The payment of the Nursing Facilities Quality of Care Fee by
22 licensed nursing facilities shall be an allowable cost for Medicaid
23 reimbursement purposes.

1 H. 1. There is hereby created in the State Treasury a
2 revolving fund to be designated the "Nursing Facility Quality of
3 Care Fund".

4 2. The fund shall be a continuing fund, not subject to fiscal
5 year limitations, and shall consist of:

- 6 a. all monies received by the Authority pursuant to this
7 section and otherwise specified or authorized by law,
- 8 b. monies received by the Authority due to federal
9 financial participation pursuant to Title XIX of the
10 Social Security Act, and
- 11 c. interest attributable to investment of money in the
12 fund.

13 3. All monies accruing to the credit of the fund are hereby
14 appropriated and shall be budgeted and expended by the Authority
15 for:

- 16 a. reimbursement of the additional costs paid to
17 Medicaid-certified nursing facilities for purposes
18 specified by Sections 1-1925.2 and 5022.2 of Title 63
19 of the Oklahoma Statutes,
- 20 b. reimbursement of the Medicaid rate increases for
21 intermediate care facilities for individuals with
22 intellectual disabilities (ICFs/IID),
- 23 c. nonemergency transportation services for Medicaid-
24 eligible nursing home clients,

- 1 d. eyeglass and denture services for Medicaid-eligible
2 nursing home clients,
- 3 e. fifteen ombudsmen employed by the ~~Department of Human~~
4 ~~Services~~ Office of the Attorney General,
- 5 f. ten additional nursing facility inspectors employed by
6 the State Department of Health,
- 7 g. pharmacy and other Medicaid services to qualified
8 Medicare beneficiaries whose incomes are at or below
9 one hundred percent (100%) of the federal poverty
10 level; provided however, pharmacy benefits authorized
11 for such qualified Medicare beneficiaries shall be
12 suspended if the federal government subsequently
13 extends pharmacy benefits to this population,
- 14 h. costs incurred by the Authority in the administration
15 of the provisions of this section and any programs
16 created pursuant to this section,
- 17 i. durable medical equipment and supplies services for
18 Medicaid-eligible elderly adults, and
- 19 j. personal needs allowance increases for residents of
20 nursing homes and Intermediate Care Facilities for
21 Individuals with Intellectual Disabilities (ICFs/IID)
22 from Thirty Dollars (\$30.00) to Fifty Dollars (\$50.00)
23 per month per resident.
24

1 4. Expenditures from the fund shall be made upon warrants
2 issued by the State Treasurer against claims filed as prescribed by
3 law with the Director of the Office of Management and Enterprise
4 Services for approval and payment.

5 5. The fund and the programs specified in this section funded
6 by revenues collected from the Nursing Facilities Quality of Care
7 Fee pursuant to this section are exempt from budgetary cuts,
8 reductions, or eliminations.

9 6. The Medicaid rate increases for intermediate care facilities
10 for individuals with intellectual disabilities (ICFs/IID) shall not
11 exceed the net Medicaid rate increase for nursing facilities
12 including, but not limited to, the Medicaid rate increase for which
13 Medicaid-certified nursing facilities are eligible due to the
14 Nursing Facilities Quality of Care Fee less the portion of that
15 increase attributable to treating the Nursing Facilities Quality of
16 Care Fee as an allowable cost.

17 7. The reimbursement rate for nursing facilities shall be made
18 in accordance with Oklahoma's Medicaid reimbursement rate
19 methodology and the provisions of this section.

20 8. No nursing facility shall be guaranteed, expressly or
21 otherwise, that any additional costs reimbursed to the facility will
22 equal or exceed the amount of the Nursing Facilities Quality of Care
23 Fee paid by the nursing facility.
24

1 I. 1. In the event that federal financial participation
2 pursuant to Title XIX of the Social Security Act is not available to
3 the Oklahoma Medicaid program, for purposes of matching expenditures
4 from the Nursing Facility Quality of Care Fund at the approved
5 federal medical assistance percentage for the applicable fiscal
6 year, the Nursing Facilities Quality of Care Fee shall be null and
7 void as of the date of the nonavailability of such federal funding,
8 through and during any period of nonavailability.

9 2. In the event of an invalidation of this section by any court
10 of last resort under circumstances not covered in subsection J of
11 this section, the Nursing Facilities Quality of Care Fee shall be
12 null and void as of the effective date of that invalidation.

13 3. In the event that the Nursing Facilities Quality of Care Fee
14 is determined to be null and void for any of the reasons enumerated
15 in this subsection, any Nursing Facilities Quality of Care Fee
16 assessed and collected for any periods after such invalidation shall
17 be returned in full within sixty (60) days by the Authority to the
18 nursing facility from which it was collected.

19 J. 1. If any provision of this section or the application
20 thereof shall be adjudged to be invalid by any court of last resort,
21 such judgment shall not affect, impair or invalidate the provisions
22 of the section, but shall be confined in its operation to the
23 provision thereof directly involved in the controversy in which such
24

1 judgment was rendered. The applicability of such provision to other
2 persons or circumstances shall not be affected thereby.

3 2. This subsection shall not apply to any judgment that affects
4 the rate of the Nursing Facilities Quality of Care Fee, its
5 applicability to all licensed nursing homes in the state, the usage
6 of the fee for the purposes prescribed in this section, or the
7 ability of the Authority to obtain full federal participation to
8 match its expenditures of the proceeds of the fee.

9 K. The Authority shall promulgate rules for the implementation
10 and enforcement of the Nursing Facilities Quality of Care Fee
11 established by this section.

12 L. The Authority shall provide for administrative penalties in
13 the event nursing facilities fail to:

- 14 1. Submit the Quality of Care Fee;
- 15 2. Submit the fee in a timely manner;
- 16 3. Submit reports as required by this section; or
- 17 4. Submit reports timely.

18 M. As used in this section:

19 1. "Nursing facility" means any home, establishment or
20 institution, or any portion thereof, licensed by the State
21 Department of Health as defined in Section 1-1902 of Title 63 of the
22 Oklahoma Statutes;

1 2. "Medicaid" means the medical assistance program established
2 in Title XIX of the federal Social Security Act and administered in
3 this state by the Authority;

4 3. "Patient gross revenues" means gross revenues received in
5 compensation for services provided to residents of nursing
6 facilities including, but not limited to, client participation. The
7 term "patient gross revenues" shall not include amounts received by
8 nursing facilities as charitable contributions; and

9 4. "Additional costs paid to Medicaid-certified nursing
10 facilities under Oklahoma's Medicaid reimbursement methodology"
11 means both state and federal Medicaid expenditures including, but
12 not limited to, funds in excess of the aggregate amounts that would
13 otherwise have been paid to Medicaid-certified nursing facilities
14 under the Medicaid reimbursement methodology which have been updated
15 for inflationary, economic, and regulatory trends and which are in
16 effect immediately prior to the inception of the Nursing Facilities
17 Quality of Care Fee.

18 N. 1. As per any approved federal Medicaid waiver, the
19 assessment rate subject to the provision of subsection C of this
20 section is to remain the same as those rates that were in effect
21 prior to January 1, 2012, for all state-licensed continuum of care
22 facilities.

23 2. Any facilities that made application to the State Department
24 of Health to become a licensed continuum of care facility no later

1 than January 1, 2012, shall be assessed at the same rate as those
2 facilities assessed pursuant to paragraph 1 of this subsection;
3 provided, that any facility making the application shall receive the
4 license on or before September 1, 2012. Any facility that fails to
5 receive such license from the State Department of Health by
6 September 1, 2012, shall be assessed at the rate established by
7 subsection C of this section subsequent to September 1, 2012.

8 O. If any provision of this section, or the application
9 thereof, is determined by any controlling federal agency, or any
10 court of last resort to prevent the state from obtaining federal
11 financial participation in the state's Medicaid program, such
12 provision shall be deemed null and void as of the date of the
13 nonavailability of such federal funding and through and during any
14 period of nonavailability. All other provisions of the bill shall
15 remain valid and enforceable.

16 SECTION 2. AMENDATORY 63 O.S. 2021, Section 1-2216, as
17 amended by Section 17, Chapter 339, O.S.L. 2024 (63 O.S. Supp. 2024,
18 Section 1-2216), is amended to read as follows:

19 Section 1-2216. A. The Attorney General shall promulgate rules
20 regarding:

21 1. The powers and official duties of the State Long-Term Care
22 Ombudsman consistent with applicable federal law and rules or as
23 provided by the Long-Term Care Ombudsman Act;
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1 2. Minimum qualifications for persons to serve as
2 representatives of the Office of the State Long-Term Care Ombudsman;

3 3. Initial and continuing training requirements for ombudsman
4 staff and volunteers which shall provide for a minimum of eighteen
5 (18) hours of continuing education relevant to the care of the aging
6 and disabled;

7 4. The minimum number of visits that must be made by an
8 ombudsman to the assigned facilities;

9 5. The proper documentation and reporting of visits made to
10 facilities by the ombudsman;

11 6. Procedures to ensure that officers, employees, or other
12 representatives of the Office are not subject to a conflict of
13 interest which would impair their ability to carry out their
14 official duties in an impartial manner; and

15 7. The disclosure by the State Long-Term Care Ombudsman or area
16 or local Ombudsman entities of files maintained by the State Long-
17 Term Care Ombudsman Program. Such rules shall:

- 18 a. provide that such files and records may be disclosed
19 only at the discretion of the State Long-Term Care
20 Ombudsman or the person designated by the State Long-
21 Term Care Ombudsman to disclose the files and records,
22 and

- b. prohibit the disclosure of the identity of any complainant or resident with respect to whom the Office maintains such files or records unless:
- (1) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing,
 - (2) (a) the complainant or resident gives consent orally, and
(b) the consent is documented contemporaneously in a writing made by a State Long-Term Care Ombudsman representative of the Office in accordance with such rules as the Attorney General shall promulgate, or
 - (3) the disclosure is required by court order.

B. The Oklahoma State Council on Aging and Adult Protective Services, established by the ~~Attorney General~~ Department of Human Services to review, monitor, and evaluate programs targeted to older persons, shall serve in an advisory capacity to the State Long-Term Care Ombudsman through establishment of a committee with equal provider and consumer representation.

SECTION 3. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

3 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
4 February 24, 2025 - DO PASS
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