

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2934

By: Mulready

7
8 COMMITTEE SUBSTITUTE

9
10 An Act relating to the Oklahoma Health Care
11 Authority; amending 56 O.S. 2011, Section 198.11a,
12 which relates to the Oklahoma Consumer-Directed
13 Personal Assistance and Support Services Act;
14 modifying entities responsible for promulgation of
15 rules; amending 56 O.S. 2011, Sections 198.16 and
16 198.17, which relate to the Oklahoma Self-Directed
17 Care Act; modifying entities responsible for
18 promulgation of rules; amending 56 O.S. 2011,
19 Sections 1010.2, 1010.4 and 1010.5, which relate to
20 the Oklahoma Medicaid Program Reform Act of 2003;
21 deleting definition; modifying definitions; modifying
22 entity responsible for promulgation of rules;
23 amending 56 O.S. 2011, Section 1011.11, which relates
24 to the durable medical equipment retrieval program;
 modifying entity responsible for promulgation of
 rules; amending 56 O.S. 2011, Sections 1017.4 and
 1017.5, which relate to the Oklahoma Choices for
 Long-Term Care Act; modifying entity responsible for
 promulgation of rules; amending 63 O.S. 2011, Section
 3250.9, which relates to waivers authorizing Medicaid
 supplements to hospital districts; modifying who
 submits application; amending 63 O.S. 2011, Section
 5000.24, which relates to the Medicaid Buy-In Program
 for persons with disabilities; modifying entity
 responsible for promulgation of rules; amending 63
 O.S. 2011, Sections 5005, 5007, 5008 and 5015.1,
 which relate to the Oklahoma Health Care Authority
 Act; modifying definitions; making Board an advisory
 body; transferring duties to the Administrator of the

1 Oklahoma Health Care Authority; transferring
2 appointing authority for the Administrator to the
3 Governor; requiring Senate confirmation; providing
4 for determination of compensation; modifying powers
5 and duties of the Administrator; transferring duties
6 of the Oklahoma Health Care Authority Board to the
7 Administrator; amending 63 O.S. 2011, Section 5017,
8 as amended by Section 524, Chapter 304, O.S.L. 2012
9 (63 O.S. Supp. 2017, Section 5017), which relates to
10 the Oklahoma Health Care Authority Federal
11 Disallowance Fund; modifying administration of the
12 fund; amending 63 O.S. 2011, Section 5020, as amended
13 by Section 525, Chapter 304, O.S.L. 2012 (63 O.S.
14 Supp. 2017, Section 5020), which relates to the
15 Oklahoma Health Care Authority Medicaid Program Fund;
16 modifying administration of the fund; amending 63
17 O.S. 2011, Section 5024, which relates to elective
18 income deferral programs; modifying entity
19 responsible for promulgating rules; amending 63 O.S.
20 2011, Section 5026, which relates to the Medicaid
21 prescription drug program; modifying entity
22 responsible for administration of program; modifying
23 entity responsible for promulgating rules; amending
24 63 O.S. 2011, Section 5027, which relates to health
care districts; modifying entity responsible for
promulgating rules; amending Section 1, Chapter 244,
O.S.L. 2015 (63 O.S. Supp. 2017, Section 5028), which
relates to care coordination models for the aged,
blind and disabled; modifying entity responsible for
promulgating rules; amending Section 1, Chapter 208,
O.S.L. 2017 (63 O.S. Supp. 2017, Section 5028.1),
which relates to care coordination models for
newborns through children 18 years of age; modifying
entity responsible for promulgating rules; amending
Section 1, Chapter 324, O.S.L. 2015 (63 O.S. Supp.
2017, Section 5029), which relates to mailing
information to victims of domestic violence;
modifying entity responsible for promulgating rules;
amending 63 O.S. 2011, Sections 5030.1, 5030.3,
5030.4 and 5030.5, as last amended by Section 1,
Chapter 306, O.S.L. 2015 (63 O.S. Supp. 2017, Section
5030.5), which relate to the Medicaid Drug
Utilization Review Board; modifying entity
responsible for promulgating rules; modifying the
administrative hearing procedure; modifying duties of
the Medicaid Drug Utilization Review Board; amending
63 O.S. 2011, Sections 5051.4 and 5051.5, which

1 relate to the recovery of expenses by the Oklahoma
2 Health Care Authority; modifying entity responsible
3 for promulgating rules; amending 63 O.S. 2011,
4 Section 5052, which relates to opportunity for
5 hearing before the Oklahoma Health Care Authority;
6 modifying entity responsible for promulgating rules;
7 repealing 63 O.S. 2011, Section 5007.1, which relates
8 to the Oklahoma Medicaid Accountability and Outcomes
9 Act; and providing an effective date.

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

11 SECTION 1. AMENDATORY 56 O.S. 2011, Section 198.11a, is
12 amended to read as follows:

13 Section 198.11a A. The Aging Services Division within the
14 Department of Human Services, upon the approval of the Centers for
15 Medicare and Medicaid Services, shall establish the Oklahoma
16 Consumer-Directed Personal Assistance and Support Services (Oklahoma
17 CD-PASS) Demonstration Program. The purpose of the Oklahoma
18 Consumer-Directed Personal Assistance and Support Services
19 Demonstration Program shall be to enhance the range of choices and
20 options for Medicaid-eligible consumers, on a voluntary basis, who
21 require long-term care support services, and to assist families with
22 a Medicaid-eligible member who requires long-term care support
23 services to arrange and purchase their own personal care and related
24 services.

1 B. The Oklahoma Consumer-Directed Personal Assistance and
2 Support Services Demonstration Program includes, but is not limited
3 to, the following types of services:

4 1. a. Basic services, such as getting a recipient in and out
5 of a bed or in or out of a wheelchair or motorized
6 chair, or both,

7 b. Assisting with certain bodily functions, such as
8 bathing and personal hygiene, dressing and grooming,
9 and feeding including preparation and cleanup;

10 2. Ancillary services such as shopping and cleaning;

11 3. Companion-type services such as transportation, letter
12 writing and reading; and

13 4. Any other service requested by the eligible recipient
14 needing care and services.

15 C. 1. In developing the Oklahoma Consumer-Directed Personal
16 Assistance and Support Services Demonstration Program, the Aging
17 Services Division shall develop guidelines, eligibility criteria,
18 program performance standards, and techniques to evaluate the
19 outcomes of the Oklahoma Consumer-Directed Personal Assistance and
20 Support Services Demonstration Program.

21 2. The Demonstration Program, at a minimum, shall have the
22 following requirements:

23 a. the cost in the aggregate of the services offered
24 through the CD-PASS Program care plan shall be equal

1 to or less than the average cost of the Advantage
2 Waiver Program service or personal care plan as
3 applicable,

4 b. the baseline level of consumer satisfaction shall be
5 measured by an independent third party prior to
6 initiation of the Demonstration Program,

7 c. the scope of services offered within the CD-PASS
8 Program shall comply with current state statutes and
9 rules, and federal regulations, and

10 d. program evaluation which shall include an indication
11 of whether:

12 (1) consumer satisfaction for CD-PASS Program
13 participants is higher than or equal to consumer
14 satisfaction for Advantage Waiver Program
15 clients, as measured by an independent third
16 party, and

17 (2) the percentage of delivered hours of the CD-PASS
18 Program client care plan are greater than or
19 equal to the percentage of delivered hours of the
20 Advantage Waiver Program service or personal care
21 plan.

22 D. The Aging Services Division may:
23
24

1 1. Consult with various federal, state and local entities in
2 order to fulfill the purposes of the Oklahoma Consumer-Directed
3 Personal Assistance and Support Services Demonstration Program;

4 2. Contract with entities in fulfilling the purposes of the
5 Oklahoma Consumer-Directed Personal Assistance and Support Services
6 Demonstration Program; and

7 3. Upon the approval of the Centers for Medicare and Medicaid
8 Services and the availability of funds, expand the Oklahoma
9 Consumer-Directed Personal Assistance and Support Services
10 Demonstration Program statewide if the evaluation provided for in
11 subsection C of this section demonstrates consumer satisfaction with
12 and cost effectiveness in the delivery of the Program.

13 E. ~~The Commission for~~ Department of Human Services and the
14 Oklahoma Health Care Authority ~~Board~~ shall promulgate any rules
15 necessary to implement the provisions of the Oklahoma Consumer-
16 Directed Personal Assistance and Support Services Act.

17 SECTION 2. AMENDATORY 56 O.S. 2011, Section 198.16, is
18 amended to read as follows:

19 Section 198.16 A. In order to implement the Oklahoma Self-
20 Directed Care Act:

21 1. The Oklahoma Health Care Authority ~~Board~~ and the ~~Commission~~
22 ~~for~~ Department of Human Services are hereby authorized to promulgate
23 rules necessary to enact the provisions of this act;

24

1 2. The Oklahoma Health Care Authority shall take all actions
2 necessary to ensure state compliance with federal regulations;

3 3. The Authority shall apply for any necessary federal waivers
4 or waiver amendments required to implement the program;

5 4. The Legislature intends that, as consumers relocate from
6 institutional settings to community-based options, funds used to
7 serve consumers in institutional settings shall follow consumers to
8 cover the cost of community-based services; and

9 5. The Department of Human Services or other applicable state
10 entity for the population served may develop an electronic benefit
11 transfer feature for the provision of self-directed care services to
12 consumers.

13 B. The Oklahoma Self-Directed Care Act, at a minimum, shall
14 meet the following requirements:

15 1. The cost in the aggregate of the services offered through
16 the self-directed care plan shall be equal to or less than the cost
17 of a home- and community-based waiver or comparable waiver program;

18 2. The baseline level of consumer satisfaction shall be
19 measured by a third party prior to initiation of the Oklahoma Self-
20 Directed Care Act;

21 3. The scope of services offered within the Self-Directed Care
22 Program shall comply with current state statutes and rules, and
23 federal regulations; and

24

1 4. Program evaluation which shall include an indication of
2 whether consumer satisfaction for Self-Directed Care Program
3 consumers is higher than or equal to consumer satisfaction for
4 home- and community-based waiver clients or other comparable waiver
5 programs, as measured by a third party.

6 C. Upon the approval of the Centers for Medicare and Medicaid
7 Services and the availability of funds, the Authority and the
8 Department shall implement the Self-Directed Care Program statewide
9 if the evaluation provided for in subsection B of this section
10 demonstrates consumer satisfaction with and cost-effectiveness in
11 the delivery of the program.

12 D. The Authority and the Department shall conduct a feasibility
13 study on the future design and implementation of expanding the home-
14 and community-based waiver program to include additional people with
15 developmental disabilities, spinal cord injury or traumatic brain
16 injury; provided, however, before allocating any new monies to such
17 program, the Department and the Authority shall prepare and submit
18 to the Legislature the results of the feasibility study and a fiscal
19 impact statement.

20 E. The Authority and the Department of Human Services shall
21 each, on an ongoing basis, review and assess the implementation of
22 the Self-Directed Care Program. By January 15 of each year, the
23 Authority shall submit a written report to the Governor and
24 Legislature that includes each agency's review of the program.

1 F. The Department of Human Services shall appoint a committee
2 to assist the Department in the development of waivers and rules
3 related to self-directed services, including the functional needs
4 assessment used for determination of eligibility for the Self-
5 Directed Services program. The committee shall be composed of two
6 self advocates or adults with developmental disabilities; two
7 parents or family members of consumers; two advocates; two
8 representatives of an agency providing Developmental Disabilities
9 Services Division waiver services; one representative from the
10 Oklahoma Parent Center; and one representative from the University
11 of Oklahoma Health Sciences Center for Learning and Leadership. The
12 committee shall sunset no later than four (4) years after
13 implementation of programs indicated in this act. The Governor,
14 President Pro Tempore of the Senate and the Speaker of the House of
15 Representatives shall each appoint an at-large representative to the
16 Committee.

17 The Authority is hereby directed to modify the state Medicaid
18 program Personal Care Program to allow any person to self-direct his
19 or her own personal care services who:

- 20 1. Is eligible to receive Personal Care Program services;
- 21 2. Chooses to receive Personal Care Program services; and
- 22 3. Is able to direct his or her own care or to designate an
23 eligible representative to assist in directing such care.

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1 SECTION 3. AMENDATORY 56 O.S. 2011, Section 198.17, is
2 amended to read as follows:

3 Section 198.17 A. The Oklahoma Health Care Authority, the
4 Department of Human Services and the Department of Mental Health and
5 Substance Abuse Services, in cooperation with community
6 stakeholders, shall develop a prescreening process to be utilized
7 prior to an individual being admitted to a nursing facility or
8 within twenty (20) days of admission to such a facility. The
9 purpose of the screening process shall be to ensure that individuals
10 who wish to avoid placement in a nursing facility have access to
11 supports necessary to remain in the community. The prescreening
12 process shall include, but not be limited to, the use of the
13 following tools:

- 14 1. Resident Assessment Instrument - Minimum Data Set (RAI-MDS),
- 15 as designated by the Centers for Medicare and Medicaid Services;
- 16 2. Universal Comprehensive Assessment Tool (UCAT);
- 17 3. Preadmission Screening and Annual Resident Review (PASARR);
- 18 4. Inventory for Client and Agency Planning (ICAP); and
- 19 5. Uniform Case Assessment Protocol (UCAP).

20 B. The Oklahoma Health Care Authority ~~Board~~ shall promulgate
21 rules necessary to implement the prescreening process developed
22 pursuant to this section, provided funding is made available to
23 implement the process.

24

1 SECTION 4. AMENDATORY 56 O.S. 2011, Section 1010.2, is
2 amended to read as follows:

3 Section 1010.2 ~~A.~~ As used in the Oklahoma Medicaid Program
4 Reform Act of 2003:

5 1. "Authority" means the Oklahoma Health Care Authority;

6 2. ~~"Board" means the Oklahoma Health Care Authority Board;~~

7 ~~3.~~ "Administrator" means the chief executive officer of the
8 Oklahoma Health Care Authority;

9 ~~4.~~ 3. "Eligible person" means any person who meets the minimum
10 requirements established by:

11 a. rules promulgated by the Oklahoma Health Care
12 Authority ~~Board~~ pursuant to the requirements of Title
13 XIX of the federal Social Security Act, 42 U.S.C.,
14 Section 1396 et seq.,

15 b. a waiver under the provisions of this act, or

16 c. any state law authorizing the purchase of small
17 employer buy-in coverage;

18 ~~5.~~ 4. "Member" means an eligible person who enrolls in the
19 Oklahoma Medicaid Healthcare Options System;

20 ~~6.~~ 5. "Nonparticipating provider" means a person who provides
21 hospital or medical care pursuant to the Oklahoma Medicaid Program
22 but does not have a managed care health services contract or
23 subcontract within the Oklahoma Medicaid Healthcare Options System;

24

1 ~~7.~~ 6. "Prepaid capitated" means a mode of payment by which a
2 health care provider directly delivers health care services for the
3 duration of a contract to a maximum specified number of members
4 based on a fixed rate per member, regardless of the actual number of
5 members who receive care from the provider or the amount of health
6 care services provided to any member;

7 ~~8.~~ 7. "Participating provider" means any person or organization
8 who contracts with the Authority for the delivery of
9 hospitalization, eye care, dental care, medical care and other
10 medically related services to members or any subcontractor of such
11 provider delivering services pursuant to the Oklahoma Medicaid
12 Healthcare Options System; and

13 ~~9.~~ 8. "System" means the Oklahoma Medicaid Healthcare Options
14 System established by the Oklahoma Medicaid Program Reform Act of
15 2003.

16 SECTION 5. AMENDATORY 56 O.S. 2011, Section 1010.4, is
17 amended to read as follows:

18 Section 1010.4 A. The Oklahoma Health Care Authority shall
19 take all steps necessary to implement the Oklahoma Medicaid
20 Healthcare Options System as required by the Oklahoma Medicaid
21 Program Reform Act of 2003.

22 B. The implementation of the System shall include, but not be
23 limited to, the following:

24

- 1 1. Development of operations plans for the System which include
2 reasonable access to hospitalization, eye care, dental care, medical
3 care and other medically related services for members including, but
4 not limited to, access to twenty-four-hour emergency care;
- 5 2. Contract administration and oversight of participating
6 providers;
- 7 3. Technical assistance services to participating providers and
8 potential providers;
- 9 4. Development of a complete plan of accounts and controls for
10 the System including, but not limited to, provisions designed to
11 ensure necessary and reasonable usage of covered health and medical
12 services provided through the System;
- 13 5. Establishment of peer review and utilization study functions
14 for all participating providers;
- 15 6. Technical assistance for the formation of medical care
16 consortiums to provide covered health and medical services under the
17 System. Development of service plans and consortiums may be on the
18 basis of medical referral patterns;
- 19 7. Development and management of a provider payment system;
- 20 8. Establishment and management of a comprehensive plan for
21 ensuring the quality of care delivered by the System;
- 22 9. Establishment and management of a comprehensive plan to
23 prevent fraud against the System by members, eligible persons and
24 participating providers;

- 1 10. Coordination of benefits provided under the Oklahoma
2 Medicaid Program Reform Act of 2003 to any member;
- 3 11. Development of a health education and information program;
- 4 12. Development and management of a participant enrollment
5 system;
- 6 13. Establishment and maintenance of a claims resolution
7 procedure to ensure that a submitted claim is resolved within forty-
8 five (45) days of the date the claim is correctly submitted;
- 9 14. Establishment of standards for the coordination of medical
10 care and patient transfers;
- 11 15. Provision for the transition of patients between
12 participating providers and nonparticipating providers;
- 13 16. Provision for the transfer of members and persons who have
14 been determined eligible from hospitals which do not have contracts
15 to care for such persons;
- 16 17. Specification of enrollment procedures including, but not
17 limited to, notice to providers of enrollment. Such procedures may
18 provide for varying time limits for enrollment in different
19 situations;
- 20 18. Establishment of uniform forms and procedures to be used by
21 all participating providers;
- 22 19. Methods of identification of members to be used for
23 determining and reporting eligibility of members;
- 24

1 20. Establishment of a comprehensive eye care and dental care
2 system which:

- 3 a. includes practitioners as participating providers,
- 4 b. provides for quality care and reasonable and equal
5 access to such practitioners, and
- 6 c. provides for the development of service plans,
7 referral plans and consortiums which result in
8 referral practices that reflect timely, convenient and
9 cost-effective access to such care for members in both
10 rural and urban areas;

11 21. a. Development of a program for Medicaid eligibility and
12 services for individuals who are in need of breast or
13 cervical cancer treatment and who:

- 14 (1) have family incomes that are below one hundred
15 eighty-five percent (185%) of the federal poverty
16 level,
- 17 (2) have not attained the age of sixty-five (65)
18 years,
- 19 (3) have no or have inadequate health insurance or
20 health benefit coverage for treatment of breast
21 and cervical cancer, and
- 22 (4) meet the requirements for treatment and have been
23 screened for breast or cervical cancer.

1 b. The program shall include presumptive eligibility and
2 shall provide for treatment throughout the period of
3 time required for treatment of the individual's breast
4 or cervical cancer,

5 c. On or before July 1, 2002, the Oklahoma Health Care
6 Authority shall coordinate with the State Commissioner
7 of Health to develop procedures to implement the
8 program, contingent upon funds becoming available; and

9 22. Establishment of co-payments, premiums and enrollment fees,
10 and the establishment of policy for those members who do not pay co-
11 payments, premiums or enrollment fees.

12 C. Except for reinsurance obtained by providers, the Authority
13 shall coordinate benefits provided under the Oklahoma Medicaid
14 Program Reform Act of 2003 to any eligible person who is covered by
15 workers' compensation, disability insurance, a hospital and medical
16 service corporation, a health care services organization or other
17 health or medical or disability insurance plan, or who receives
18 payments for accident-related injuries, so that any costs for
19 hospitalization and medical care paid by the System are recovered
20 first from any other available third party payors. The System shall
21 be the payor of last resort for eligible persons.

22 D. Prior to the development of the plan of accounts and
23 controls required by this section and periodically thereafter, the
24 Authority shall compare the scope, utilization rates, utilization

1 control methods and unit prices of major health and medical services
2 provided in this state with health care services in other states to
3 identify any unnecessary or unreasonable utilization within the
4 System. The Authority shall periodically assess the cost
5 effectiveness and health implications of alternate approaches to the
6 provision of covered health and medical services through the System
7 in order to reduce unnecessary or unreasonable utilization.

8 E. The Authority may contract distinct administrative functions
9 to one or more persons or organizations who may be participating
10 providers within the System.

11 F. Contracts for managed health care plans, authorized pursuant
12 to paragraph 2 of subsection A of Section 1010.3 of this title and
13 necessary to implement the System, and other contracts entered into
14 prior to July 1, 1996, shall not be subject to the provisions of the
15 Oklahoma Central Purchasing Act.

16 G. The Oklahoma Health Care Authority ~~Board~~ shall promulgate
17 rules:

18 1. Establishing appropriate competitive bidding criteria and
19 procedures for contracts awarded pursuant to the Oklahoma Medicaid
20 Program Reform Act of 2003;

21 2. Which provide for the withholding or forfeiture of payments
22 to be made to a participating provider by the Oklahoma Medicaid
23 Healthcare Options System for the failure of the participating
24 provider to comply with a provision of the participating provider's

1 contract with the System or with the provisions of promulgated rules
2 or law; and

3 3. Necessary to carry out the provisions of the Oklahoma
4 Medicaid Program Reform Act of 2003. Such rules shall consider the
5 differences between rural and urban conditions on the delivery of
6 hospitalization services, eye care, dental care and medical care.

7 SECTION 6. AMENDATORY 56 O.S. 2011, Section 1010.5, is
8 amended to read as follows:

9 Section 1010.5 As a condition of the contract with any proposed
10 or potential participating provider pursuant to the Oklahoma
11 Medicaid Program Reform Act of 2003, the Oklahoma Health Care
12 Authority shall require such contract terms as are necessary, in its
13 judgment, to ensure adequate performance by a participating provider
14 of the provisions of each contract executed pursuant to the Oklahoma
15 Medicaid Program Reform Act of 2003. Required contract provisions
16 shall include, but are not limited to:

17 1. The maintenance of deposits, performance bonds, financial
18 reserves or other financial providers which have posted other
19 security, equal to or greater than that required by the System, with
20 a state agency for the performance of managed care contracts if
21 funds would be available from such security for the System upon
22 default by the participating provider;

23 2. A requirement that whenever the state appropriates funds for
24 specific purposes, including, but not limited to, increases in

1 reimbursement rates, a participating provider and any subcontractor
2 shall apportion such funds pursuant to legislative directive;

3 3. Requirements that all records relating to contract
4 compliance shall be available for inspection by the Authority or are
5 submitted in accordance with rules promulgated by the Oklahoma
6 Health Care Authority ~~Board~~ and that such records be maintained by
7 the participating provider for five (5) years. Such records shall
8 also be made available by a participating provider on request of the
9 secretary of the United States Department of Health and Human
10 Services, or its successor agency;

11 4. Authorization for the Authority to directly assume the
12 operations of a participating provider under circumstances specified
13 in the contract. Operations of the participating provider shall be
14 assumed only as long as it is necessary to ensure delivery of
15 uninterrupted care to members enrolled with the participating
16 provider and accomplish the orderly transition of those members to
17 other providers participating in the System, or until the
18 participating provider reorganizes or otherwise corrects the
19 contract performance failure. The operations of a participating
20 provider shall not be assumed unless, prior to that action, notice
21 is delivered to the provider and an opportunity for a hearing is
22 provided; and

23 5. A requirement that, if the Authority finds that the public
24 health, safety or welfare requires emergency action, it may assume

1 the operations of the participating provider on notice to the
2 participating provider and pending an administrative hearing which
3 it shall promptly institute. Notice, hearings and actions pursuant
4 to this subsection shall be in accordance with Article II of the
5 Administrative Procedures Act.

6 SECTION 7. AMENDATORY 56 O.S. 2011, Section 1011.11, is
7 amended to read as follows:

8 Section 1011.11 A. The Oklahoma Health Care Authority shall
9 develop and implement, as funds become available, a durable medical
10 equipment retrieval program that will allow the Authority to:

11 1. Retrieve durable medical equipment, purchased with Medicaid
12 funds, from the Medicaid consumers who no longer utilize the
13 equipment; and

14 2. Donate such equipment to community-based programs that will
15 distribute the equipment to individuals who are disabled or elderly.

16 B. The Oklahoma Health Care Authority ~~Board~~ shall promulgate
17 rules and establish procedures necessary to implement the program
18 established in this section.

19 C. For the purpose of this section, "durable medical equipment"
20 means equipment that is primarily and customarily used to serve a
21 medical purpose, can withstand repeated use and is appropriate for
22 use in the home.

23 SECTION 8. AMENDATORY 56 O.S. 2011, Section 1017.4, is
24 amended to read as follows:

1 Section 1017.4 A. The Oklahoma Health Care Authority is
2 directed to create a system of enrollment, Medicaid eligibility, and
3 certification for home- and community-based services provided by the
4 ADvantage Waiver Program that provides for presumptive Medicaid
5 eligibility and certification that is the same as that which exists
6 for nursing facilities as provided for in administrative rules
7 promulgated by the Oklahoma Health Care Authority ~~Board~~. The system
8 shall facilitate the provision of home- and community-based services
9 to persons at risk of placement in a nursing facility but who elect
10 to be served in a home- and community-based setting in lieu of
11 nursing facility services.

12 B. The Department of Human Services is directed to make such
13 changes in its regulations, policies and procedures as are necessary
14 to implement the enrollment, Medicaid eligibility, and certification
15 requirements established pursuant to subsection A of this section.

16 C. The Oklahoma Health Care Authority shall develop and submit
17 for approval no later than November 1, 2011, applications for
18 waivers or amendments to waivers of applicable federal laws and
19 regulations as necessary to implement the provisions of the Oklahoma
20 Choices for Long-Term Care Act. Copies of all waivers submitted to
21 the United States Centers for Medicare and Medicaid Services shall
22 be provided to the Governor, the Speaker of the Oklahoma House of
23 Representatives and the President Pro Tempore of the Oklahoma State
24 Senate within ten (10) days of their submissions. Waivers and

1 amendments to waivers approved by the United States Centers for
2 Medicare and Medicaid Services as provided in this section shall be
3 provided to the Governor, the Speaker of the Oklahoma House of
4 Representatives and the President Pro Tempore of the Oklahoma State
5 Senate within ten (10) days of their approval. The Oklahoma Health
6 Care Authority shall implement any waivers and amendments to waivers
7 approved by the United States Centers for Medicare and Medicaid
8 Services no later than January 1, 2012, or within sixty (60) days of
9 their approval. The Oklahoma Health Care Authority shall report the
10 savings as the result of the Oklahoma Choices for Long-Term Care Act
11 each year in its annual report.

12 SECTION 9. AMENDATORY 56 O.S. 2011, Section 1017.5, is
13 amended to read as follows:

14 Section 1017.5 A. On or before January 1, 2012, the Oklahoma
15 Health Care Authority shall initiate a Request for Proposal (RFP)
16 which shall outline specific expectations and requirements of
17 suppliers to competitively bid on administrative agent services for
18 the ADvantage Waiver Program. The RFP shall comply with all
19 requirements of The Oklahoma Central Purchasing Act related to state
20 procurement.

21 The RFP shall:

- 22 1. Require outsourcing of administrative agent services for a
23 period of one (1) year;
- 24 2. Outline minimum requirements;

1 3. Direct the Oklahoma Central Purchasing Office to award a
2 contract for administrative agent services;

3 4. Have a submission deadline of April 1, 2012;

4 5. Provide that the administrative agent contract award be
5 announced on May 15, 2012; and

6 6. Provide that the administrative agent contract awarded begin
7 July 1, 2012.

8 B. The State of Oklahoma shall not discriminate against
9 suppliers from states or nations outside Oklahoma and shall
10 reciprocate the bidding preference given by other states or nations
11 to suppliers domiciled in their jurisdictions for acquisitions
12 pursuant to The Oklahoma Central Purchasing Act. The state shall
13 give preference to a resident bidder over other state or foreign
14 bidders if goods or services provided in this state are equal in
15 price, fitness, availability or quality.

16 C. Suppliers shall be required to have comprehensive experience
17 in the administration of a Medicaid home- and community-based
18 service delivery system for elders in frail health and adults with
19 disabilities. The administrative agent contract shall be awarded to
20 one supplier based on qualification, merit and cost competitiveness
21 and evaluation criteria that include:

22 1. Qualifications and experience in providing similar services;

23 2. Knowledge and technical competence;

24

1 3. Management, key personnel and other professional
2 certifications;

3 4. Timeliness and responsiveness of services;

4 5. Detailed budget/costs;

5 6. Proposal for management and administration with detailed
6 description of:

7 a. administrative structures that shall be in place prior
8 to contract implementation to support the scope of
9 services,

10 b. processes and procedures for daily operations,

11 c. expected outcomes along with the performance measures
12 used to measure the effectiveness of each function,

13 d. description of data collection methods and reporting
14 mechanisms,

15 e. methods used to collaborate and communicate with
16 members, service providers, local and state health and
17 human service agencies, regulatory agencies, and other
18 stakeholders, and

19 f. detailed description and supporting documentation of
20 how each waiver assurance will be met.

21 D. State employees currently performing such function shall be
22 allowed to compete by submitting a bid to perform the administrative
23 agency functions required in the day-to-day operations of the
24 ADvantage Waiver Program; provided, however, that any and all such

1 bids shall be submitted to and certified by the Oklahoma Health Care
2 Authority, who shall for purposes of this section constitute the
3 "agency" as such term is defined in the Oklahoma Privatization of
4 State Functions Act.

5 E. The Oklahoma Health Care Authority ~~Board~~ shall promulgate
6 rules and establish procedures necessary to implement the request
7 for proposals and for the administration of the ADvantage Waiver
8 Program pursuant to this section.

9 SECTION 10. AMENDATORY 63 O.S. 2011, Section 3250.9, is
10 amended to read as follows:

11 Section 3250.9 The Administrator of the Oklahoma Health Care
12 Authority ~~Board~~ shall submit an application for any waiver necessary
13 to authorize Medicaid supplements to hospital districts to the
14 extent permitted by federal law and pursuant to the Oklahoma
15 Community Hospitals Public Trust Authorities Act.

16 SECTION 11. AMENDATORY 63 O.S. 2011, Section 5000.24, is
17 amended to read as follows:

18 Section 5000.24 A. The Oklahoma Health Care Authority,
19 following directives of and upon approval of the Health Care
20 Financing Administration, is directed to implement a Medicaid Buy-In
21 Program for persons with disabilities, if funds become available.
22 Components of such program shall include, but not be limited to:

23 1. Allowing individuals with disabilities who are sixteen (16)
24 years of age and over, but under sixty-five (65) years of age, and

1 who, except for earned income, would be eligible to receive
2 Supplemental Security Income (SSI) benefits, regardless of whether
3 they have ever received Supplemental Security Income (SSI) cash
4 benefits, the option of purchasing Medicaid coverage that will
5 enable individuals with disabilities to gain and/or maintain
6 employment and reduce their dependency on existing cash benefit
7 programs;

8 2. Removing work disincentives that inhibit individuals with
9 disabilities from engaging in work that is commensurate with their
10 abilities and capabilities;

11 3. Developing an infrastructure within and outside state
12 government that supports efforts to enhance employment opportunities
13 for individuals with disabilities; and

14 4. Ensuring meaningful input in the design, implementation, and
15 evaluation of programs, policies, and procedures developed under
16 such program by individuals with disabilities and other interested
17 parties.

18 B. The Oklahoma Health Care Authority ~~Board~~ shall promulgate
19 any rules necessary to implement provisions of the Oklahoma Ticket
20 to Work and Work Incentives Improvement Act regarding the Medicaid
21 Buy-In Program.

22 SECTION 12. AMENDATORY 63 O.S. 2011, Section 5005, is
23 amended to read as follows:

24

1 Section 5005. For purposes of the Oklahoma Health Care
2 Authority Act:

3 1. "Administrator" means the chief executive officer of the
4 Authority;

5 2. "Authority" means the Oklahoma Health Care Authority;

6 3. ~~"Board" means the Oklahoma Health Care Authority Board;~~

7 4. "Health services provider" means health insurance carriers,
8 pre-paid health plans, hospitals, physicians and other health care
9 professionals, and other entities who contract with the Authority
10 for the delivery of health care services to state and education
11 employees and persons covered by the state Medicaid program; and

12 ~~5.~~ 4. "State-purchased health care" or "state-subsidized health
13 care" means medical and health care, pharmaceuticals and medical
14 equipment purchased with or supported by state and federal funds
15 through the Oklahoma Health Care Authority, the Department of Mental
16 Health and Substance Abuse Services, the State Department of Health,
17 the Department of Human Services, the Department of Corrections, the
18 Department of Veterans Affairs, other state agencies administering
19 state-purchased or state-subsidized health care programs, the
20 Oklahoma State Regents for Higher Education, the State Board of
21 Education and local school districts.

22 SECTION 13. AMENDATORY 63 O.S. 2011, Section 5007, is
23 amended to read as follows:

24

1 Section 5007. A. There is hereby created the Oklahoma Health
2 Care Authority Board which shall be an advisory body to the
3 Administrator of the Oklahoma Health Care Authority. Effective
4 January 14, 2019, all duties and powers of the Board shall be
5 transferred to the Administrator. Any provision in statute that
6 provides to the Board authority that is not advisory in nature shall
7 be deemed to grant the duty or power to the Administrator. On and
8 after July 1, 1994, as the terms of the initially appointed members
9 expire, the Board shall be composed of seven (7) appointed members
10 who shall serve for terms of four (4) years and shall be appointed
11 as follows:

12 1. Two members shall be appointed by the President Pro Tempore
13 of the Senate;

14 2. Two members shall be appointed by the Speaker of the House
15 of Representatives; and

16 3. Three members shall be appointed by the Governor. Two of
17 the members appointed by the Governor shall be consumers.

18 B. Members appointed pursuant to this paragraph, with the
19 exception of the consumer members, shall include persons having
20 experience in medical care, health care services, health care
21 delivery, health care finance, health insurance and managed health
22 care. Consumer members shall have no financial or professional
23 interest in medical care, health care services, health care
24 delivery, health finance, health insurance or managed care. In

1 making the appointments, the appointing authority shall also give
2 consideration to urban, rural, gender and minority representation.

3 C. 1. As the terms of office of members appointed before July
4 1, 1995, expire, appointments made on or after July 1, 1995, shall
5 be subject to the following requirements:

6 a. One member appointed by the Governor shall be a
7 resident of the First Congressional District. The
8 term of office of the member appointed by the Governor
9 and serving as of the effective date of this act shall
10 expire on September 1, 2003;

11 b. One member appointed by the President Pro Tempore of
12 the Senate shall be a resident of the Second
13 Congressional District and a consumer. The term of
14 office of the member appointed by the President Pro
15 Tempore of the Senate and serving as of the effective
16 date of this act shall expire on September 1, 1999;

17 c. One member appointed by the President Pro Tempore of
18 the Senate shall be a resident of the Third
19 Congressional District. The term of office of the
20 member appointed by the President Pro Tempore of the
21 Senate and serving as of the effective date of this
22 act shall expire on September 1, 2004;

23 d. One member appointed by the Speaker of the House of
24 Representatives shall be a resident of the Fourth

1 Congressional District. The term of office of the
2 member appointed by the Speaker of the House of
3 Representatives and serving as of the effective date
4 of this act shall expire on September 1, 2001;

5 e. One member appointed by the Speaker of the House of
6 Representatives shall be a resident of the Fifth
7 Congressional District and a consumer. The term of
8 office of the member appointed by the Speaker of the
9 House of Representatives and serving as of the
10 effective date of this act shall expire on September
11 1, 1998;

12 f. One member appointed by the Governor shall be a
13 resident of the Sixth Congressional District and a
14 consumer. The term of office of the member appointed
15 by the Governor and serving as of the effective date
16 of this act shall expire on September 1, 2000; and

17 g. The second consumer member appointed by the Governor
18 shall be appointed at large. The term of office of
19 the member appointed by the Governor and serving as of
20 the effective date of this act shall expire on
21 September 1, 2002.

22 2. Appointments made subsequent to the effective date of this
23 act shall not be restricted to any particular congressional
24 district. Appointments made after July 1 of the year in which a

1 redrawing of a congressional district becomes effective shall be
2 from the state at large. However, no appointments may be made after
3 July 1 of the year in which such modification becomes effective if
4 such appointment would result in more than two members serving from
5 the same modified district.

6 D. The terms of the members serving on the Board as of the
7 effective date of this act shall expire on September 1 of the year
8 in which the respective terms expire. Thereafter, as new terms
9 begin, members shall be appointed to four-year staggered terms which
10 shall expire on September 1. Should a member serve less than a
11 four-year term, the term of office of the member subsequently
12 appointed shall be for the remainder of the four-year term.

13 ~~E. On and after July 1, 1994, any subsequently appointed~~
14 ~~administrator of the Authority shall be appointed by the Board. The~~
15 ~~administrator shall have the training and experience necessary for~~
16 ~~the administration of the Authority, as determined by the Board,~~
17 ~~including, but not limited to, prior experience in the~~
18 ~~administration of managed health care. The administrator shall~~
19 ~~serve at the pleasure of the Board.~~

20 F. The ~~Board~~ Administrator shall have the power and duty to:

21 1. Establish the policies of the Oklahoma Health Care
22 Authority;

23 2. ~~Appoint the Administrator of the Authority;~~

24

1 ~~3.~~ Adopt and promulgate rules as necessary and appropriate to
2 carry out the duties and responsibilities of the Authority. The
3 ~~Board~~ Administrator shall be the rulemaking body for the Authority;
4 and

5 ~~4.~~ 3. Adopt, publish and submit by January 1 of each year to
6 the Governor, the President Pro Tempore of the Senate, and the
7 Speaker of the House of Representatives appropriate administrative
8 policies and the business plan for that year. All actions governed
9 by said administrative policies and annual business plan shall be
10 examined annually in an independent audit.

11 ~~G. 1.~~ F. A vacancy in a position shall be filled in the same
12 manner as provided in subsection A of this section.

13 ~~2.~~ A majority of the members of the Board shall constitute a
14 quorum for the transaction of business and for taking any official
15 action. Official action of the Board must have a favorable vote by
16 a majority of the members present.

17 ~~3.~~ Members appointed pursuant to subsection A of this section
18 shall serve without compensation but shall be reimbursed for
19 expenses incurred in the performance of their duties in accordance
20 with the State Travel Reimbursement Act.

21 ~~H.~~ G. The ~~Board and the~~ Authority shall act in accordance with
22 the provisions of the Oklahoma Open Meeting Act, the Oklahoma Open
23 Records Act and the Administrative Procedures Act.

24

1 SECTION 14. AMENDATORY 63 O.S. 2011, Section 5008, is
2 amended to read as follows:

3 Section 5008. A. The Administrator of the Oklahoma Health Care
4 Authority shall have the training and experience necessary for the
5 administration of the Authority, ~~as determined by the Oklahoma~~
6 ~~Health Care Authority Board, including, but not limited to, prior~~
7 ~~experience in the administration of managed health care.~~ The
8 Administrator shall be appointed by the Governor, with the advice
9 and consent of the Senate, and shall serve at the pleasure of the
10 ~~Board~~ Governor and may be removed or replaced without cause.
11 Compensation for the Administrator shall be determined pursuant to
12 Section 3601.2 of Title 74 of the Oklahoma Statutes.

13 B. The Administrator of the Oklahoma Health Care Authority
14 shall be the chief executive officer of the Authority and shall act
15 for the Authority in all matters except as may be otherwise provided
16 by law. The powers and duties of the Administrator shall include
17 but not be limited to:

- 18 1. Supervision of the activities of the Authority;
- 19 2. Formulation and recommendation of rules for approval or
20 rejection ~~by the Oklahoma Health Care Authority Board~~ and
21 enforcement of rules and standards promulgated by the ~~Board~~
22 Authority;

23 3. Preparation of the plans, reports and proposals required by
24 the Oklahoma Health Care Authority Act, Section 5003 et seq. of this

1 title, other reports as necessary and appropriate, and an annual
2 budget for the review and approval of the ~~Board~~ Authority;

3 4. Employment of such staff as may be necessary to perform the
4 duties of the Authority including but not limited to an attorney to
5 provide legal assistance to the Authority for the state Medicaid
6 program; and

7 5. Establishment of a contract bidding process which:

- 8 a. encourages competition among entities contracting with
9 the Authority for state-purchased and state-subsidized
10 health care; provided, however, the Authority may make
11 patient volume adjustments to any managed care plan
12 whose prime contractor is a state-sponsored,
13 nationally accredited medical school. The Authority
14 may also make education or research supplemental
15 payments to state-sponsored, nationally accredited
16 medical schools based on the level of participation in
17 any managed care plan by managed care plan
18 participants,
- 19 b. coincides with the state budgetary process, and
20 c. specifies conditions for awarding contracts to any
21 insuring entity.

22 C. The Administrator may appoint advisory committees as
23 necessary to assist the Authority with the performance of its duties
24 or to provide the Authority with expertise in technical matters.

1 SECTION 15. AMENDATORY 63 O.S. 2011, Section 5015.1, is
2 amended to read as follows:

3 Section 5015.1 A. The Administrator of the Oklahoma Health
4 Care Authority ~~Board~~ shall establish a legal division or unit in the
5 Oklahoma Health Care Authority. The Administrator ~~of the Oklahoma~~
6 ~~Health Care Authority~~ may employ attorneys as needed, which may be
7 on full-time and part-time basis. Provided the Oklahoma Health Care
8 Authority shall not exceed the authorized full-time equivalent limit
9 for attorneys as specified by the Legislature in the appropriations
10 bill for the Authority. Except as otherwise provided by this
11 section, such attorneys, in addition to advising the ~~Board,~~
12 Administrator and Authority personnel on legal matters, may appear
13 for and represent the ~~Board,~~ Administrator and Authority in legal
14 actions and proceedings.

15 B. The Legislature shall establish full-time-equivalent limits
16 for attorneys employed by the Oklahoma Health Care Authority.

17 C. It shall continue to be the duty of the Attorney General to
18 give official opinions to the ~~Board,~~ Administrator and Authority,
19 and to prosecute and defend actions therefor, if requested to do so.
20 The Attorney General may levy and collect costs, expenses of
21 litigation and a reasonable attorney fee for such legal services
22 from the Authority. The Attorney General is authorized to levy and
23 collect costs, expenses and fees which exceed the costs associated
24

1 with the salary and benefits of one attorney FTE position per fiscal
2 year.

3 D. The ~~Board~~, Administrator or Authority shall not contract for
4 representation by private legal counsel unless approved by the
5 Attorney General. Such contract for private legal counsel shall be
6 in the best interests of the state.

7 E. 1. The Attorney General shall be notified by the ~~Board~~
8 Administrator or ~~its~~ counsel for the Administrator of all lawsuits
9 against the Authority, its officers or employees that seek
10 injunctive relief which would impose obligations requiring the
11 expenditure of funds in excess of unencumbered monies in the
12 agency's appropriations or beyond the current fiscal year.

13 2. The Attorney General shall review any such cases and may
14 represent the interests of the state, if the Attorney General
15 considers it to be in the best interest of the state to do so, in
16 which case the Attorney General shall be paid as provided in
17 subsection C of this section. Representation of multiple defendants
18 in such actions may, at the discretion of the Attorney General, be
19 divided with counsel for the ~~Board~~, Administrator and Authority as
20 necessary to avoid conflicts of interest.

21 SECTION 16. AMENDATORY 63 O.S. 2011, Section 5017, as
22 amended by Section 524, Chapter 304, O.S.L. 2012 (63 O.S. Supp.
23 2017, Section 5017), is amended to read as follows:
24

1 Section 5017. There is hereby created in the State Treasury a
2 fund for the Oklahoma Health Care Authority to be designated the
3 "Oklahoma Health Care Authority Federal Disallowance Fund". The
4 fund shall be a continuing fund, not subject to fiscal year
5 limitations. It shall consist of monies received by the Oklahoma
6 Health Care Authority which, in the opinion of the Administrator of
7 the Oklahoma Health Care Authority Board, may be subject to federal
8 disallowances and interest which may accrue on said receipts. All
9 monies accruing to the credit of said fund are hereby appropriated
10 and may be budgeted and expended by the Oklahoma Health Care
11 Authority at the discretion of the ~~Oklahoma Health Care Authority~~
12 ~~Board~~ Administrator for eventual settlement of the appropriate
13 pending disallowances. Expenditures from said fund shall be made
14 upon warrants issued by the State Treasurer against claims filed as
15 prescribed by law with the Director of the Office of Management and
16 Enterprise Services for approval and payment.

17 The Administrator of the Oklahoma Health Care Authority may
18 request the Director of the Office of Management and Enterprise
19 Services to transfer monies between the Oklahoma Health Care
20 Authority Federal Disallowance Fund and any other fund of the
21 authority, as needed for the expenditure of funds.

22 SECTION 17. AMENDATORY 63 O.S. 2011, Section 5020, as
23 amended by Section 525, Chapter 304, O.S.L. 2012 (63 O.S. Supp.
24 2017, Section 5020), is amended to read as follows:

1 Section 5020. There is hereby created in the State Treasury a
2 fund for the Oklahoma Health Care Authority to be designated the
3 "Oklahoma Health Care Authority Medicaid Program Fund". The fund
4 shall be a continuing fund, not subject to fiscal year limitations.
5 All monies accruing to the credit of said fund are hereby
6 appropriated and may be budgeted and expended by the Oklahoma Health
7 Care Authority at the discretion of the ~~Oklahoma Health Care~~
8 ~~Authority Board~~ Administrator. Expenditures from said fund shall be
9 made upon warrants issued by the State Treasurer against claims
10 filed as prescribed by law with the Director of the Office of
11 Management and Enterprise Services for approval and payment.

12 The Administrator ~~of the Oklahoma Health Care Authority~~ may
13 request the Director of the Office of Management and Enterprise
14 Services to transfer monies between the Oklahoma Health Care
15 Authority Medicaid Program Fund and any other fund of the Authority,
16 as needed for the expenditure of funds.

17 SECTION 18. AMENDATORY 63 O.S. 2011, Section 5024, is
18 amended to read as follows:

19 Section 5024. A. 1. Effective July 1, 2001, the Oklahoma
20 Health Care Authority is authorized to offer to eligible contracted
21 incorporated physician providers, elective income deferral programs
22 which can result in federal income tax advantages and other
23 advantages to such providers and their employees. These deferral
24 programs shall take into account present and future provisions of

1 the United States Internal Revenue Code which now or in the future
2 might have the beneficial effect of magnifying the after-tax value
3 payments made by the state to incorporated physician providers.

4 2. The Oklahoma Health Care Authority may adopt a plan that
5 provides for the investment of deferral amounts in life insurance or
6 annuity contracts which offer a choice of underlying investment
7 options. Contract-issuing companies shall be limited to companies
8 that are licensed to do business in this state.

9 3. As a condition of participation in these income deferral
10 programs, all participating incorporated physician providers shall
11 be subject to provisions for forfeiture of benefits for failure to
12 maintain in force a Medicaid provider agreement and to furnish
13 services to Medicaid recipients for a specified duration.

14 B. The Oklahoma Health Care Authority may consult with the
15 State Treasurer and the Attorney General of the state for advice in
16 establishing the program.

17 C. The Oklahoma Health Care Authority ~~Board~~ shall have the
18 authority to promulgate rules regarding the operation of the
19 program.

20 SECTION 19. AMENDATORY 63 O.S. 2011, Section 5026, is
21 amended to read as follows:

22 Section 5026. A. The Oklahoma Health Care Authority ~~Board~~
23 shall, in administering the Medicaid prescription drug program,
24 utilize the following definition for "phenylketonuria" to mean: An

1 inborn error of metabolism attributable to a deficiency of or a
2 defect in phenylalanine hydroxylase, the enzyme that catalyzes the
3 conversion of phenylalanine to tyrosine. The deficiency permits the
4 accumulation of phenylalanine and its metabolic products in the body
5 fluids. The deficiency can result in mental retardation
6 (phenylpyruvic oligophrenia), neurologic manifestations (including
7 hyperkinesia, epilepsy, and microcephaly), light pigmentation, and
8 eczema. The disorder is transmitted as an autosomal recessive trait
9 and can be treated by administration of a diet low in phenylalanine.

10 B. The Oklahoma Health Care Authority ~~Board~~ shall promulgate
11 any rules necessary to effectuate the provisions of this section.

12 SECTION 20. AMENDATORY 63 O.S. 2011, Section 5027, is
13 amended to read as follows:

14 Section 5027. A. As used in this section "health care
15 district" means a subordinate health care entity that better
16 promotes efficient administration of health care service delivery
17 for counties with a population of one hundred thousand (100,000) or
18 less to eligible persons in this state.

19 B. A locally designated health care district shall:

20 1. Coordinate the delivery of health care services in local
21 jurisdictions such as municipalities and counties; provided,
22 however, jurisdictions containing multiple areas shall be contiguous
23 and shall possess commonality as it relates to need;

24

1 2. Be authorized to adjust Medicaid provider rates above the
2 state minimum established by the Oklahoma Health Care Authority;

3 3. Be authorized to contract with employer-sponsored health
4 plans or private health plans to provide services to Medicaid and
5 indigent beneficiaries; and

6 4. Be authorized to expand health care services or health care
7 providers within health care districts.

8 C. Health care districts may be established by local
9 communities wherein locally generated tax dollars are received for
10 the benefit of local hospitals or other local health care services.
11 The districts shall have the same boundaries as the area over which
12 the locally assessed tax is levied.

13 D. Health care districts may be established by the governing
14 boards of the hospitals located within the area over which the
15 locally assessed tax for the benefit of the local hospital or other
16 local health care service is levied. The governing board of the
17 hospital shall be the governing board of the local health care
18 district.

19 E. 1. Each health care district may certify to the Oklahoma
20 Health Care Authority the amount of funds generated by tax
21 assessment within the health care district for the benefit of the
22 local hospital or other local health care services.

23 2. The Authority shall submit such information to the Centers
24 for Medicare and Medicaid Services (CMS) for the purpose of applying

1 for federal matching funds. The Authority shall submit any
2 necessary applications for waivers to accomplish the provisions of
3 this act.

4 F. The Oklahoma Health Care Authority ~~Board~~ is hereby directed
5 to promulgate rules to enact the provisions of this section. The
6 rules shall, at a minimum, address:

7 1. Internal establishment of local health care district
8 accounts within the Authority including, but not limited to,
9 procedures for remitting funds out of such accounts back to the
10 local health care district; and

11 2. Methods for certifying funds for each local health care
12 district and for reporting such amounts to the Centers for Medicare
13 and Medicaid Services for federal matching purposes. The revenue
14 for each health care district account shall consist of federal
15 matching dollars received for such certified funds.

16 The Oklahoma Health Care Authority shall apply for federal
17 matching funds based on the amount of funds certified by the local
18 health care district for such purposes. The Authority shall not
19 reduce the amount of disbursements otherwise due to a health care
20 district based on the health care district's receipt of the local
21 area dedicated monies and any attributable federal matching funds;
22 and

23
24

1 3. Procedures for continuing the Authority's claims payment
2 function, pursuant to a draw-down process for funds, for each
3 Medicaid service within the local health care district.

4 SECTION 21. AMENDATORY Section 1, Chapter 244, O.S.L.
5 2015 (63 O.S. Supp. 2017, Section 5028), is amended to read as
6 follows:

7 Section 5028. A. The Oklahoma Health Care Authority shall
8 initiate requests for proposals for care coordination models for
9 aged, blind and disabled persons. Care coordination models for
10 members receiving institutional care shall be phased in two (2)
11 years after the initial enrollment period of a care coordination
12 program.

13 B. The Oklahoma Health Care Authority ~~Board~~ shall promulgate
14 rules to implement the provisions of this act.

15 SECTION 22. AMENDATORY Section 1, Chapter 208, O.S.L.
16 2017 (63 O.S. Supp. 2017, Section 5028.1), is amended to read as
17 follows:

18 Section 5028.1 A. The Oklahoma Health Care Authority, with
19 assistance from the Department of Human Services and the Department
20 of Mental Health and Substance Abuse Services, shall initiate a
21 request for information for care coordination models for newborns
22 through children eighteen (18) years of age in the custody of the
23 Department of Human Services.

1 B. Any request for information shall require consideration of
2 and incorporate efforts to continue the implementation of relevant
3 initiatives as provided by the Master Settlement Agreement
4 ("Pinnacle Plan") and administered by the Department of Human
5 Services.

6 C. The Oklahoma Health Care Authority, with assistance from the
7 Department of Human Services and the Department of Mental Health and
8 Substance Abuse Services, shall provide a summary of the request for
9 information responses to the President Pro Tempore of the Oklahoma
10 State Senate, the Speaker of the Oklahoma House of Representatives
11 and the Governor on or before January 1, 2018.

12 D. The Oklahoma Health Care Authority ~~Board~~ shall promulgate
13 rules to implement the provisions of this section.

14 SECTION 23. AMENDATORY Section 1, Chapter 324, O.S.L.
15 2015 (63 O.S. Supp. 2017, Section 5029), is amended to read as
16 follows:

17 Section 5029. A. The Oklahoma Health Care Authority shall
18 coordinate with domestic violence sexual assault programs certified
19 by the Office of the Attorney General who provide counseling
20 services for victims of domestic violence to ensure that any
21 information relating to billing or explanation of benefits (EOB)
22 provided, maintained, monitored or otherwise handled by the
23 Authority or any other state agency including, but not limited to,
24

1 services rendered by such facilities, is not sent by paper mail to
2 the actual physical address of persons receiving such services.

3 B. The Oklahoma Health Care Authority ~~Board~~ shall promulgate
4 rules to implement the provisions of this act.

5 SECTION 24. AMENDATORY 63 O.S. 2011, Section 5030.1, is
6 amended to read as follows:

7 Section 5030.1 A. There is hereby created within the Oklahoma
8 Health Care Authority the Medicaid Drug Utilization Review Board,
9 which shall be responsible for the development, implementation and
10 assessment of retrospective and prospective drug utilization
11 programs under the direction of the Authority.

12 B. The Medicaid Drug Utilization Review Board shall consist of
13 ten (10) members appointed by the administrator of the Authority as
14 follows:

15 1. Four physicians, licensed and actively engaged in the
16 practice of medicine or osteopathic medicine in this state, of
17 which:

18 a. three shall be physicians chosen from a list of not
19 less than six names submitted by the Oklahoma State
20 Medical Association, and

21 b. one shall be a physician chosen from a list of not
22 less than two names submitted by the Oklahoma
23 Osteopathic Association;

24

1 2. Four licensed pharmacists actively engaged in the practice
2 of pharmacy, chosen from a list of not less than six names submitted
3 by the Oklahoma Pharmaceutical Association;

4 3. One person representing the lay community, who shall not be
5 a physician or a pharmacist, but shall be a health care professional
6 with recognized knowledge and expertise in at least one of the
7 following:

- 8 a. clinically appropriate prescribing of covered
9 outpatient drugs,
- 10 b. clinically appropriate dispensing and monitoring of
11 covered outpatient drugs,
- 12 c. drug use review, evaluation and intervention, and
- 13 d. medical quality assurance; and

14 4. One person representing the pharmaceutical industry who is a
15 resident of the State of Oklahoma, chosen from a list of not less
16 than two names submitted by the Pharmaceutical Research and
17 Manufacturers of America. The member representing the
18 pharmaceutical industry shall be prohibited from voting on action
19 items involving drugs or classes of drugs.

20 C. Members shall serve terms of three (3) years, except that
21 one physician, one pharmacist and the lay representative shall each
22 be initially appointed for two-year terms in order to stagger the
23 terms. In making the appointments, the administrator shall provide,
24 to the extent possible, for geographic balance in the representation

1 on the Medicaid Drug Utilization Review Board. Members may be
2 reappointed for a period not to exceed three three-year terms and
3 one partial term. Vacancies on the Medicaid Drug Utilization Review
4 Board shall be filled for the balance of the unexpired term from new
5 lists submitted by the entity originally submitting the list for the
6 position vacated.

7 D. The Medicaid Drug Utilization Review Board shall elect from
8 among its members a chair and a vice-chair who shall serve one-year
9 terms, provided they may succeed themselves.

10 E. The proceedings of all meetings of the Medicaid Drug
11 Utilization Review Board shall comply with the provisions of the
12 Oklahoma Open Meeting Act and shall be subject to the provisions of
13 the Administrative Procedures Act.

14 F. The Medicaid Drug Utilization Review Board may advise and
15 make recommendations to the Authority regarding existing, proposed
16 and emergency rules governing retrospective and prospective drug
17 utilization programs. The Oklahoma Health Care Authority Board
18 shall promulgate rules pursuant to the provisions of the
19 Administrative Procedures Act for implementation of the provisions
20 of this section.

21 SECTION 25. AMENDATORY 63 O.S. 2011, Section 5030.3, is
22 amended to read as follows:

23 Section 5030.3 A. The Medicaid Drug Utilization Review Board
24 shall have the power and duty to:

1 1. Advise and make recommendations regarding rules promulgated
2 by the Oklahoma Health Care Authority ~~Board~~ to implement the
3 provisions of this act;

4 2. Oversee the development, implementation and assessment of a
5 Medicaid retrospective and prospective drug utilization review
6 program, including making recommendations regarding contractual
7 agreements of the Oklahoma Health Care Authority with any entity
8 involved in processing and reviewing Medicaid drug profiles for the
9 drug utilization review program in accordance with the provisions of
10 this act;

11 3. Develop and apply the criteria and standards to be used in
12 retrospective and prospective drug utilization review. The criteria
13 and standards shall be based on the compendia and federal Food and
14 Drug Act approved labeling, and shall be developed with professional
15 input;

16 4. Provide a period for public comment on each meeting agenda.
17 As necessary, the Medicaid Drug Utilization Review Board may include
18 a public hearing as part of a meeting agenda to solicit public
19 comment regarding proposed changes in the prior authorization
20 program and the retrospective and prospective drug utilization
21 review processes. Notice of proposed changes to the prior
22 authorization status of a drug or drugs shall be included in the
23 monthly meeting agenda at least thirty (30) days prior to the
24

1 consideration or recommendation of any proposed changes in prior
2 authorization by the Medicaid Drug Utilization Review Board;

3 5. Establish provisions to timely reassess and, as necessary,
4 revise the retrospective and prospective drug utilization review
5 process;

6 6. Make recommendations regarding the prior authorization of
7 prescription drugs pursuant to the provisions of Section ~~5~~ 5030.5 of
8 this ~~act~~ title; and

9 7. Provide members of the provider community with educational
10 opportunities related to the clinical appropriateness of
11 prescription drugs.

12 B. Any party aggrieved by a decision of the ~~Oklahoma Health~~
13 ~~Care Authority Board or the~~ Administrator of the Oklahoma Health
14 Care Authority, pursuant to a recommendation of the Medicaid Drug
15 Utilization Review Board, shall be entitled to an administrative
16 hearing before the ~~Oklahoma Health Care Authority Board~~ chief
17 medical officer pursuant to the provisions of the Administrative
18 Procedures Act.

19 SECTION 26. AMENDATORY 63 O.S. 2011, Section 5030.4, is
20 amended to read as follows:

21 Section 5030.4 1. The Medicaid Drug Utilization Review Board
22 shall develop and recommend to the Administrator of the Oklahoma
23 Health Care Authority ~~Board~~ a retrospective and prospective drug
24 utilization review program for medical outpatient drugs to ensure

1 that prescriptions are appropriate, medically necessary, and not
2 likely to result in adverse medical outcomes.

3 2. The retrospective and prospective drug utilization review
4 program shall be operated under guidelines established by the
5 Medicaid Drug Utilization Review Board as follows:

- 6 a. The retrospective drug utilization review program
7 shall be based on guidelines established by the
8 Medicaid Drug Utilization Review Board using the
9 mechanized drug claims processing and information
10 retrieval system to analyze claims data in order to:
- 11 (1) identify patterns of fraud, abuse, gross overuse
12 or underuse, and inappropriate or medically
13 unnecessary care,
 - 14 (2) assess data on drug use against explicit
15 predetermined standards that are based on the
16 compendia and other sources for the purpose of
17 monitoring:
 - 18 (a) therapeutic appropriateness,
 - 19 (b) overutilization or underutilization,
 - 20 (c) appropriate use of generic drugs,
 - 21 (d) therapeutic duplication,
 - 22 (e) drug-disease contraindications,l
 - 23 (f) drug-drug interactions,
 - 24 (g) incorrect drug dosage,

1 (h) duration of drug treatment, and

2 (i) clinical abuse or misuse, and

3 (3) introduce remedial strategies in order to improve
4 the quality of care and to conserve program funds
5 or personal expenditures.

6 b. (1) The prospective drug utilization review program
7 shall be based on guidelines established by the
8 Medicaid Drug Utilization Review Board and shall
9 provide that, before a prescription is filled or
10 delivered, a review will be conducted by the
11 pharmacist at the point of sale to screen for
12 potential drug therapy problems resulting from:

13 (a) therapeutic duplication,

14 (b) drug-drug interactions,

15 (c) incorrect drug dosage or duration of drug
16 treatment,

17 (d) drug-allergy interactions, and

18 (e) clinical abuse or misuse.

19 (2) In conducting the prospective drug utilization
20 review, a pharmacist may not alter the prescribed
21 outpatient drug therapy without the consent of
22 the prescribing physician or purchaser.

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1 SECTION 27. AMENDATORY 63 O.S. 2011, Section 5030.5, as
2 last amended by Section 1, Chapter 306, O.S.L. 2015 (63 O.S. Supp.
3 2017, Section 5030.5), is amended to read as follows:

4 Section 5030.5 A. Except as provided in subsection F of this
5 section, any drug prior authorization program approved or
6 implemented by the Medicaid Drug Utilization Review Board shall meet
7 the following conditions:

8 1. The Medicaid Drug Utilization Review Board shall make note
9 of and consider information provided by interested parties,
10 including, but not limited to, physicians, pharmacists, patients,
11 and pharmaceutical manufacturers, related to the placement of a drug
12 or drugs on prior authorization;

13 2. Any drug or drug class placed on prior authorization shall
14 be reconsidered no later than twelve (12) months after such
15 placement;

16 3. The program shall provide either telephone or fax approval
17 or denial within twenty-four (24) hours after receipt of the prior
18 authorization request; and

19 4. In an emergency situation, including a situation in which an
20 answer to a prior authorization request is unavailable, a seventy-
21 two-hour supply shall be dispensed, or, at the discretion of the
22 Medicaid Drug Utilization Review Board, a greater amount that will
23 assure a minimum effective duration of therapy for an acute
24 intervention.

1 B. In formulating its recommendations for placement of a drug
2 or drug class on prior authorization to the Administrator of the
3 Oklahoma Health Care Authority ~~Board~~, the Medicaid Drug Utilization
4 Review Board shall:

5 1. Consider the potential impact of any administrative delay on
6 patient care and the potential fiscal impact of such prior
7 authorization on pharmacy, physician, hospitalization and outpatient
8 costs. Any recommendation making a drug subject to placement on
9 prior authorization shall be accompanied by a statement of the cost
10 and clinical efficacy of such placement;

11 2. Provide a period for public comment on each meeting agenda.
12 Prior to making any recommendations, the Medicaid Drug Utilization
13 Review Board shall solicit public comment regarding proposed changes
14 in the prior authorization program in accordance with the provisions
15 of the Oklahoma Open Meeting Act and the Administrative Procedures
16 Act; and

17 3. Review Oklahoma-Medicaid-specific data related to
18 utilization criterion standards as provided in division (1) of
19 subparagraph b of paragraph 2 of Section 5030.4 of this title.

20 C. The ~~Oklahoma Health Care~~ Administrator of the Authority
21 ~~Board~~ may accept or reject the recommendations of the Medicaid Drug
22 Utilization Review Board in whole or in part, and may amend or add
23 to such recommendations.

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1 D. The Oklahoma Health Care Authority shall immediately provide
2 coverage under prior authorization for any new drug approved by the
3 United States Food and Drug Administration. If a new drug does not
4 fall in a class that is already placed under prior authorization,
5 that drug must be reviewed by the Drug Utilization Review Board
6 within one hundred (100) days of approval by the United States Food
7 and Drug Administration to determine whether to continue the prior
8 authorization criteria.

9 E. 1. Prior to a vote by the Medicaid Drug Utilization Review
10 Board to consider expansion of product-based prior authorization,
11 the Authority shall:

- 12 a. develop a written estimate of savings expected to
13 accrue from the proposed expansion, and
- 14 b. make the estimate of savings available, on request of
15 interested persons, no later than the day following
16 the first scheduled discussion of the estimate by the
17 Medicaid Drug Utilization Review Board at a regularly
18 scheduled meeting.

19 2. The written savings estimate based upon savings estimate
20 assumptions specified by paragraph 3 of this subsection prepared by
21 the Authority shall include as a minimum:

- 22 a. a summary of all paid prescription claims for patients
23 with a product in the therapeutic category under
24 consideration during the most recent month with

1 complete data, plus a breakdown, as available, of
2 these patients according to whether the patients are
3 residents of a long-term care facility or are
4 receiving Advantage Waiver program services,

5 b. current number of prescriptions, amount reimbursed and
6 trend for each product within the category under
7 consideration,

8 c. average active ingredient cost reimbursed per day of
9 therapy for each product and strength within the
10 category under consideration,

11 d. for each product and strength within the category
12 under consideration, where applicable, the prevailing
13 State Maximum Allowable Cost reimbursed per dosage
14 unit,

15 e. the anticipated impact of any patent expiration of any
16 product within the category under consideration
17 scheduled to occur within two (2) years from the
18 anticipated implementation date of the proposed prior
19 authorization expansion, and

20 f. a detailed estimate of administrative costs involved
21 in the prior authorization expansion including, but
22 not limited to, the anticipated increase in petition
23 volume.

24 3. Savings estimate assumptions shall include, at a minimum:

- 1 a. the prescription conversion rate of products requiring
2 prior authorization (Tier II) to products not
3 requiring prior authorization (Tier I) and to other
4 alternative products,
5 b. aggregated rebate amount for the proposed Tier I and
6 Tier II products within the category under
7 consideration,
8 c. market shift of Tier II products due to other causes
9 including, but not limited to, patent expiration,
10 d. Tier I to Tier II prescription conversion rate, and
11 e. nature of medical benefits and complications typically
12 seen with products in this class when therapy is
13 switched from one product to another.

14 4. The Medicaid Drug Utilization Review Board shall consider
15 prior authorization expansion in accordance with the following
16 Medicaid Drug Utilization Review Board meeting sequence:

- 17 a. first meeting: publish the category or categories to
18 be considered for prior authorization expansion in the
19 future business section of the Medicaid Drug
20 Utilization Review Board agenda,
21 b. second meeting: presentation and discussion of the
22 written estimate of savings,
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- c. third meeting: make formal notice in the agenda of intent to vote on the proposed prior authorization expansion, and
- d. fourth meeting: vote on prior authorization expansion.

F. The Medicaid Drug Utilization Review Board may establish protocols and standards for the use of any prescription drug determined to be medically necessary, proven to be effective and approved by the United States Food and Drug Administration (FDA) for the treatment and prevention of human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) without prior authorization, except when there is a generic equivalent drug available.

SECTION 28. AMENDATORY 63 O.S. 2011, Section 5051.4, is amended to read as follows:

Section 5051.4 The Oklahoma Health Care Authority is hereby authorized to charge an enrollment fee and/or premium for the provision of health care coverage under the Oklahoma Medicaid Program Reform Act of 2003. Such charges, if unpaid, create a debt to the state and are subject to recovery by the Authority by any legal action against an enrollee, the heirs or next of kin of the enrollee in the event of the death of the enrollee. The Authority may end coverage for the nonpayment of such enrollment and/or

1 premium pursuant to rules promulgated by the Oklahoma Health Care
2 Authority ~~Board~~.

3 SECTION 29. AMENDATORY 63 O.S. 2011, Section 5051.5, is
4 amended to read as follows:

5 Section 5051.5 A. 1. On or after November 1, 2003, any entity
6 that provides health insurance in this state including, but not
7 limited to, a licensed insurance company, not-for-profit hospital
8 service, medical indemnity corporation, managed care organization,
9 self-insured plan, pharmacy benefit manager or other party that is,
10 by statute, contract, or agreement, legally responsible for payment
11 of a claim for a health care item or service is hereby required to
12 compare data from its files with data in files provided to the
13 entity by the Oklahoma Health Care Authority and accept the
14 Authority's right of recovery and the assignment of rights and not
15 charge the Authority or any of its authorized agents any fees for
16 the processing of claims or eligibility requests. Data files
17 requested by or provided to the Authority shall provide the
18 Authority with eligibility and coverage information that will enable
19 the Authority to determine the existence of third party coverage for
20 Medicaid recipients and the necessary information to determine
21 during what period Medicaid recipients may be or may have been
22 covered by the health insurer and the nature of the coverage that is
23 or was provided, including the name, address, and identifying number
24 of the plan.

1 2. The insurer shall transmit to the Authority, in a manner
2 prescribed by the Centers for Medicare and Medicaid Services or as
3 agreed between insurer and the Authority, an electronic file of all
4 identified subscribers or policyholders, or their dependents, for
5 whom there is data corresponding to the information contained in
6 subsection C of this section.

7 B. 1. An insurer shall comply with a request under the
8 provisions of this subsection no later than sixty (60) days after
9 the date of transmission by the Authority and shall only be required
10 to provide the Authority with the information required by subsection
11 C of this section.

12 2. The Authority may make such request for data from an insurer
13 no more than once every six (6) months, as determined by the date of
14 the Authority's original request.

15 C. Each insurer shall maintain a file system containing the
16 name, address, group policy number, coverage type, Social Security
17 number, and date of birth of each subscriber or policyholder, and
18 each dependent of the subscriber or policyholder covered by the
19 insurer, including policy effective and termination dates, claim
20 submission address, and employer's mailing address.

21 D. The Oklahoma Health Care Authority ~~Board~~ shall promulgate
22 rules governing the exchange of information under this section.
23 Such rules shall be consistent with all laws relating to the
24 confidentiality or privacy of personal information or medical

1 records including, but not limited to, provisions under the federal
2 Health Insurance Portability and Accountability Act (HIPAA).

3 SECTION 30. AMENDATORY 63 O.S. 2011, Section 5052, is
4 amended to read as follows:

5 Section 5052. A. Any applicant or recipient, adversely
6 affected by a decision of the Oklahoma Health Care Authority on
7 benefits or services provided pursuant to the provisions of this
8 title, shall be afforded an opportunity for a hearing pursuant to
9 the provisions of subsection B of this section after such applicant
10 or recipient has been notified of the adverse decision of the
11 Authority.

12 B. 1. Upon timely receipt of a request for a hearing as
13 specified in the notice of adverse decision and exhaustion of other
14 available administrative remedies, the Authority shall hold a
15 hearing pursuant to the provisions of rules promulgated by the
16 Oklahoma Health Care Authority ~~Board~~ pursuant to this section.

17 2. The record of the hearing shall include, but shall not be
18 limited to:

- 19 a. all pleadings, motions, and intermediate rulings,
- 20 b. evidence received or considered,
- 21 c. any decision, opinion, or report by the officer
22 presiding at the hearing, and

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1 d. all staff memoranda or data submitted to the hearing
2 officer or members of the agency in connection with
3 their consideration of the case.

4 3. Oral proceedings shall be electronically recorded by the
5 Authority. Any party may request a copy of the tape recording of
6 such person's administrative hearing or may request a transcription
7 of the tape recording to comply with any federal or state law.

8 C. Any decision of the Authority after such a hearing pursuant
9 to subsection B of this section shall be subject to review by the
10 Administrator of the Oklahoma Health Care Authority upon a timely
11 request for review by the applicant or recipient. The Administrator
12 shall issue a decision after review. A hearing decision of the
13 Authority shall be final and binding unless a review is requested
14 pursuant to the provisions of this subsection. The decision of the
15 Administrator may be appealed to the district court in which the
16 applicant or recipient resides within thirty (30) days of the date
17 of the decision of the Administrator as provided by the provisions
18 of subsection D of this section.

19 D. Any applicant or recipient under this title who is aggrieved
20 by a decision of the Administrator rendered pursuant to this section
21 may petition the district court in which the applicant or recipient
22 resides for a judicial review of the decision pursuant to the
23 provisions of Sections 318 through 323 of Title 75 of the Oklahoma
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1 Statutes. A copy of the petition shall be served by mail upon the
2 general counsel of the Authority.

3 SECTION 31. REPEALER 63 O.S. 2011, Section 5007.1, is
4 hereby repealed.

5 SECTION 32. This act shall become effective January 14, 2019.

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7 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02/28/2018 - DO PASS,
8 As Amended.

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