

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3025

By: Humphrey

AS INTRODUCED

An Act relating to public health and safety; amending 56 O.S. 2021, Section 2002, which relates to Nursing Facilities Quality of Care Fee; terminating fee; and providing an effective date.

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

B. As a basis for determining the Nursing Facilities Quality of Care Fee assessed upon each licensed nursing facility, the Authority

1 shall calculate a uniform per-patient day rate. The rate shall be  
2 calculated by dividing six percent (6%) of the total annual patient  
3 gross receipts of all licensed nursing facilities in this state by  
4 the total number of patient days for all licensed nursing facilities  
5 in this state. The result shall be the per-patient day rate.

6 Beginning July 15, 2004, the Nursing Facilities Quality of Care Fee  
7 shall not be increased unless specifically authorized by the  
8 Legislature. Effective November 1, 2026, the Nursing Facilities  
9 Quality of Care Fee shall be terminated.

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

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

21 E. Each licensed nursing facility which is assessed the Nursing  
22 Facilities Quality of Care Fee shall be required to file a report on  
23 a monthly basis with the Authority detailing the daily patient  
24  
--

1 census and patient gross receipts at such time and in such manner as  
2 required by the Authority.

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

8 2. Annually the Nursing Facilities Quality of Care Fee shall be  
9 determined by:

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

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

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

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

24  
--

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

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

10           3. All monies accruing to the credit of the fund are hereby  
11 appropriated and shall be budgeted and expended by the Authority  
12 for:

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

- 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,
- 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~~ Intermediate Care  
11 Facilities for Individuals with Intellectual Disabilities (ICFs/IID)  
12 shall not exceed the net Medicaid rate increase for nursing  
13 facilities including, but not limited to, the Medicaid rate increase  
14 for which Medicaid-certified nursing facilities are eligible due to  
15 the Nursing Facilities Quality of Care Fee less the portion of that  
16 increase attributable to treating the Nursing Facilities Quality of  
17 Care Fee as an allowable cost.

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

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

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~~ this  
15 section shall remain valid and enforceable.

16 SECTION 2. This act shall become effective November 1, 2024.

18 59-2-8495 TJ 11/30/23