

1 **SENATE FLOOR VERSION**

2 February 18, 2021

3 SENATE BILL NO. 434

By: McCortney of the Senate

4 and

5 McEntire of the House

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7
8 An Act relating to the state Medicaid program;
9 stating purpose of act; creating the I/T/U Shared
10 Savings Program; providing that certain services may
11 be subject to certain reimbursement; providing for
12 certain distribution and deposit of savings;
13 prohibiting certain use of fund; requiring certain
14 actions and distributions to be conducted in
15 accordance with certain federal guidance; specifying
16 criteria of care coordination agreements; providing
17 for promulgation of rules and execution of contracts
18 in accordance with certain requirements; requiring
19 the Oklahoma Health Care Authority to seek certain
20 federal approval; providing for termination of the
21 I/T/U Shared Savings Program under certain
22 conditions; creating the I/T/U Shared Savings
23 Revolving Fund; specifying purpose of fund and
24 revenue sources; requiring submission of certain
annual report; specifying criteria of report;
providing for codification; providing an effective
date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 5061.1 of Title 63, unless there
is created a duplication in numbering, reads as follows:

1 A. The purpose of this act is to maximize and direct the
2 reinvestment of any savings to the Oklahoma Health Care Authority
3 generated by enhanced federal matching authorized under Section
4 1905(b) of the Social Security Act at a rate of one hundred percent
5 (100%) for covered services received through participating Indian
6 Health Service, Tribal and Urban Indian (I/T/U) facilities.

7 B. There is hereby created the I/T/U Shared Savings Program.
8 Pursuant to guidance of the Centers for Medicare & Medicaid Services
9 (CMS), authorized services provided by a non-I/T/U Medicaid provider
10 to an American Indian or Alaska Native (AI/AN) Medicaid beneficiary
11 as a result of a referral from an I/T/U facility provider may be
12 eligible for the enhanced federal matching rate of one hundred
13 percent (100%).

14 C. 1. The Authority shall distribute up to fifty percent (50%)
15 of any savings that result from the I/T/U Shared Savings Program
16 provided for in this section to participating I/T/U facilities that
17 have complied with the terms of this act and applicable federal law,
18 but only after administrative costs incurred by the Authority in
19 implementing the I/T/U Shared Savings Program have been fully
20 satisfied.

21 2. Distributions to participating I/T/U facilities shall be
22 used to increase care coordination and to support health care
23 initiatives for AI/AN populations.

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1 3. The Authority shall deposit any shared savings that remain
2 after administrative costs have been fully paid, and after
3 distributions have been made to participating I/T/U facilities, into
4 the I/T/U Shared Savings Revolving Fund created in Section 2 of this
5 act for the purpose of increasing Medicaid provider rates. Monies
6 in the fund shall not be used to replace other general revenues
7 appropriated and funded by the Legislature or other revenues used to
8 support Medicaid.

9 D. 1. All actions taken by the Authority in implementing the
10 I/T/U Shared Savings Program shall be made in accordance with
11 applicable state and federal Medicaid law and CMS State Health
12 Official letter (SHO) #16-002, issued on February 26, 2016, and CMS
13 Frequently Asked Questions (FAQs) regarding "Federal Funding for
14 Services 'Received Through' an IHS/Tribal Facility and Furnished to
15 Medicaid-Eligible American Indians and Alaska Natives (SHO #16-002)"
16 issued on January 18, 2017, and as such guidance may be hereinafter
17 amended or modified.

18 2. The Authority shall make distributions to a participating
19 I/T/U facility in accordance with paragraph 1 of subsection C of
20 this section, contingent upon the production of executed copies of
21 Care Coordination Agreements (CCAs) for all services billed to
22 Oklahoma Medicaid that were received through the I/T/U facility.
23 CCAs must be executed between the I/T/U facility and the non-I/T/U
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1 provider and must include, at a minimum, assurances that care
2 coordination shall involve:

- 3 a. the I/T/U facility practitioner providing a request
4 for specific services by electronic or other
5 verifiable means and relevant information about the
6 practitioner's patient to the non-I/T/U provider,
- 7 b. the non-I/T/U provider sending information about the
8 care the non-I/T/U provider provides to the patient
9 including the results of any screening, diagnostic or
10 treatment procedures, to the I/T/U facility
11 practitioner,
- 12 c. the I/T/U facility practitioner continuing to assume
13 responsibility for the patient's care by assessing the
14 information and taking appropriate action including,
15 when necessary, furnishing or requesting additional
16 services, and
- 17 d. the I/T/U facility incorporating the patient's
18 information in the medical record through the
19 statewide health information exchange or other agreed-
20 upon means.

21 E. The Oklahoma Health Care Authority Board is authorized to
22 promulgate administrative rules and to enter into contractual
23 agreements with I/T/U facilities as needed to effectuate the
24 provisions of this act. As part of the rulemaking process, the

1 Authority shall comply with the Tribal Consultation Requirements
2 provided by the Medicaid State Plan.

3 F. The Authority shall promptly seek any necessary federal
4 approval for the implementation of this act. In the event that any
5 necessary federal approval is not obtained, or in the event funding
6 of Oklahoma Medicaid from state, federal or other sources is
7 withdrawn, reduced or limited in any way that affects implementation
8 of the I/T/U Shared Savings Program, the I/T/U Shared Savings
9 Program may be terminated immediately by the Authority, and no court
10 or tribunal shall have jurisdiction to review such termination.

11 SECTION 2. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 5061.2 of Title 63, unless there
13 is created a duplication in numbering, reads as follows:

14 A. There is hereby created in the State Treasury a revolving
15 fund for the Oklahoma Health Care Authority to be designated the
16 "I/T/U Shared Savings Revolving Fund". The fund shall be a
17 continuing fund, not subject to fiscal year limitations, and shall
18 consist of all monies received by the Authority pursuant to this act
19 and otherwise specified or authorized by law.

20 All monies accruing to the credit of the fund are hereby
21 appropriated and shall be budgeted and expended by the Authority to
22 increase Medicaid provider rates, unless otherwise provided by law.
23 Expenditures from the fund shall be made upon warrants issued by the
24 State Treasurer against claims filed as prescribed by law with the

1 Director of the Office of Management and Enterprise Services for
2 approval and payment.

3 B. An annual report shall be prepared by the Authority's Chief
4 Financial Officer and shall be submitted to the Governor, the
5 President Pro Tempore of the Senate and the Speaker of the House of
6 Representatives no later than thirty (30) days following the end of
7 each State Fiscal Year. The annual report shall account for:

8 1. The savings realized by the Authority as a result of the
9 I/T/U Shared Savings Program;

10 2. The administrative costs incurred by the Authority as a
11 result of the I/T/U Shared Savings Program;

12 3. The monies distributed to participating I/T/U facilities as
13 a result of I/T/U Shared Savings Program including, but not limited
14 to, a summary of all specific distributions;

15 4. The balance of savings realized by the Authority as a result
16 of the I/T/U Shared Savings Program and accruing to the credit of
17 the fund after payment of administrative costs and distributions to
18 participating I/T/U facilities; and

19 5. The monies expended on increasing Medicaid provider rates
20 including, but not limited to, identification of the types of
21 providers affected and the percentage by which the providers' rates
22 were increased.

23 SECTION 3. This act shall become effective July 1, 2021.
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1 SECTION 4. It being immediately necessary for the preservation
2 of the public peace, health or safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

5 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
6 February 18, 2021 - DO PASS
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