

An Act

ENROLLED SENATE
BILL NO. 434

By: McCortney and Floyd of the
Senate

and

McEntire, Pittman and
Fugate of the House

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

SUBJECT: Medicaid

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:

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

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

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

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

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

D. 1. All actions taken by the Authority in implementing the I/T/U Shared Savings Program shall be made in accordance with

applicable state and federal Medicaid law and CMS State Health Official letter (SHO) #16-002, issued on February 26, 2016, and CMS Frequently Asked Questions (FAQs) regarding "Federal Funding for Services 'Received Through' an IHS/Tribal Facility and Furnished to Medicaid-Eligible American Indians and Alaska Natives (SHO #16-002)" issued on January 18, 2017, and as such guidance may be hereinafter amended or modified.

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

- a. the I/T/U facility practitioner providing a request for specific services by electronic or other verifiable means and relevant information about the practitioner's patient to the non-I/T/U provider,
- b. the non-I/T/U provider sending information about the care the non-I/T/U provider provides to the patient including the results of any screening, diagnostic or treatment procedures, to the I/T/U facility practitioner,
- c. the I/T/U facility practitioner continuing to assume responsibility for the patient's care by assessing the information and taking appropriate action including, when necessary, furnishing or requesting additional services, and
- d. the I/T/U facility incorporating the patient's information in the medical record through the statewide health information exchange or other agreed-upon means.

E. The Oklahoma Health Care Authority Board is authorized to promulgate administrative rules and to enter into contractual agreements with I/T/U facilities as needed to effectuate the

provisions of this act. As part of the rulemaking process, the Authority shall comply with the Tribal Consultation Requirements provided by the Medicaid State Plan.

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

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

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

All monies accruing to the credit of the fund are hereby appropriated and shall be budgeted and expended by the Authority to increase Medicaid provider rates, unless otherwise provided by law. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

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

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

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

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

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

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

SECTION 3. This act shall become effective July 1, 2021.

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

Passed the Senate the 19th day of May, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 25th day of May, 2021.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____