

FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1337 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Marcus McEntire

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 FLOOR SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 1337

6 By: McCortney of the Senate

7 and

8 McEntire of the House

9 FLOOR SUBSTITUTE

10 An Act relating to the state Medicaid program;
11 providing legislative intent; amending 56 O.S. 2021,
12 Section 4002.2, which relates to the Ensuring Access
13 to Medicaid Act; defining terms; modifying terms;
14 requiring the Oklahoma Health Care Authority to enter
15 into certain contracts; requiring legislative
16 authorization for certain contracts; requiring the
17 Oklahoma Health Care Authority to request certain
18 partnerships; allowing agency specifications on
19 covered services; creating compliance deadline;
20 requiring the Oklahoma Health Care Authority to
21 receive certain confirmation from certain federal
22 agency; requiring certain payment programs; requiring
23 certain bids; allowing certain entities to be awarded
24 contracts; requiring a certain number of contracts to
be awarded; requiring certain qualifications on
certain contracts; creating exemption to
qualifications requirement; requiring the Oklahoma
Health Care Authority to develop certain
methodologies; providing factors for developed
methodologies; allowing extension of contracts in
certain situations; requiring new contracts to be
made after the end of the contract term; requiring
the agency to provide members certain assistance;
amending 56 O.S. 2021, Section 4002.4, which relates
to network adequacy standards; requiring network
adequacy standards; removing certain requirements;
modifying terminology; setting certain timelines;
requiring Oklahoma Health Care Authority to develop

1 certain contract terms; requiring contracted entities
2 to meet all requirements; requiring Oklahoma Health
3 Care Authority to develop certain methods; amending
4 56 O.S. 2021, Section 4002.5, which relates to
5 administrative responsibilities; requiring contracted
6 entities to hold certain administrative
7 responsibilities; requiring contracted entities to
8 hold certificates of authority; requiring certain
9 governance structures; requiring certain
10 notifications; requiring the use of certain drug
11 formulary; ensuring broad access to pharmacies;
12 requiring the submission of data; amending 56 O.S.
13 2021, Section 4002.6, which relates to
14 authorizations; making certain authorization
15 requirements; implementing certain deadlines for
16 certain requests; requiring agency implementation of
17 requirements for internal and external reviews;
18 amending 56 O.S. 2021, Section 4002.7, which relates
19 to requirements; creating claims adjudication
20 standards; modifying terms; amending 56 O.S. 2021,
21 Section 4002.8, which relates to procedures;
22 modifying terms; amending 56 O.S. 2021, Section
23 4002.10, which relates to readiness reviews; updating
24 terms; removing certain requirements; amending 56
O.S. 2021, Section 4002.11, which relates to delivery
model transition scorecards; updating timelines;
modifying terms; amending 56 O.S. 2021, Section
4002.12, which relates to minimum rates; providing
deadline for compliance; modifying terms; removing
certain requirements; setting certain requirements
for certain services; setting reimbursement
standards; setting dental contracted entity
standards; requiring agency to ensure sustainability
of system; requiring agency to preserve funding of
certain programs; requiring agency reporting;
amending 56 O.S. 2021, Section 4002.13, which relates
to the Quality Advisory Committee; renaming
committee; granting duties and powers; requesting
recommendations from committee; creating defined
measures for program and capitated contracts;
amending 56 O.S. 2021, Section 4004, which relates to
federal approval; requiring the seeking of approval
for implementation of the Ensuring Access to Medicaid
Act; amending 63 O.S. 2021, Section 5009, which
relates to the Oklahoma Medicaid program; removing
certain requirements; updating entity designation;
amending 63 O.S. 2021, Section 5009.2, which relates

1 to the Advisory Committee on Medical Care for Public
2 Assistance Recipients; updating membership
3 requirements; amending 36 O.S. 2021, Section 312.1,
4 which relates to the revolving funds; updating fiscal
5 apportionment; providing for recodification;
6 repealing 56 O.S. 2021, Sections 1010.2, 1010.3,
7 1010.4, 1010.5, 4002.3, and 4002.9; repealing 63 O.S.
8 2021, Sections 5009.5, 5011, and 5028; providing for
9 codification; providing an effective date; declaring
10 an emergency; and providing contingency effective
11 date.

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

13 SECTION 1. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4002.1a of Title 56, unless
15 there is created a duplication in numbering, reads as follows:

16 It is the intent of the Legislature to transform the state's
17 current Medicaid program to provide budget predictability for the
18 taxpayers of this state while ensuring quality care to those in
19 need. The state Medicaid program shall be designed to achieve the
20 following goals:

- 21 1. Improve health outcomes for Medicaid members and the state
22 as a whole;
- 23 2. Ensure budget predictability through shared risk and
24 accountability;
- 25 3. Ensure access to care, quality measures, and member
26 satisfaction;

1 4. Ensure efficient and cost-effective administrative systems
2 and structures; and

3 5. Ensure a sustainable delivery system that is a provider-led
4 effort and that is operated and managed by providers to the maximum
5 extent possible.

6 SECTION 2. AMENDATORY 56 O.S. 2021, Section 4002.2, is
7 amended to read as follows:

8 Section 4002.2 As used in ~~this act~~ the Ensuring Access to
9 Medicaid Act:

10 1. "Adverse determination" has the same meaning as provided by
11 Section 6475.3 of Title 36 of the Oklahoma Statutes;

12 2. "Accountable care organization" means a network of
13 physicians, hospitals, and other health care providers that provides
14 coordinated care to Medicaid members;

15 3. "Claims denial error rate" means the rate of claims denials
16 that are overturned on appeal;

17 ~~3.~~ 4. "Capitated contract" means a contract between the
18 Oklahoma Health Care Authority and a contracted entity for delivery
19 of services to Medicaid members in which the Authority pays a fixed,
20 per-member-per-month rate based on actuarial calculations;

21 5. "Children's Specialty Plan" means a health care plan that
22 covers all Medicaid services other than dental services and is
23 designed to provide care to:

24 a. children in foster care,

1 b. former foster care children up to twenty-five (25)
2 years of age,

3 c. juvenile justice involved children, and

4 d. children receiving adoption assistance;

5 6. "Clean claim" means a properly completed billing form with
6 Current Procedural Terminology, 4th Edition or a more recent
7 edition, the Tenth Revision of the International Classification of
8 Diseases coding or a more recent revision, or Healthcare Common
9 Procedure Coding System coding where applicable that contains
10 information specifically required in the Provider Billing and
11 Procedure Manual of the Oklahoma Health Care Authority, as defined
12 in 42 C.F.R., Section 447.45;

13 ~~4.~~ 7. "Commercial plan" means an organization or entity that
14 undertakes to provide or arrange for the delivery of health care
15 services to Medicaid members on a prepaid basis and is subject to
16 all applicable federal and state laws and regulations;

17 8. "Contracted entity" means an organization or entity that
18 enters into or will enter into a capitated contract with the
19 Oklahoma Health Care Authority for the delivery of services
20 specified in this act that will assume financial risk, operational
21 accountability, and statewide or regional functionality as defined
22 in this act in managing comprehensive health outcomes of Medicaid
23 members. For purposes of this act, the term contracted entity
24 includes an accountable care organization, a provider-led entity, a

1 commercial plan, a dental benefit manager, or any other entity as
2 determined by the Authority;

3 9. "Dental benefit manager" means an entity ~~under contract with~~
4 ~~the Oklahoma Health Care Authority to manage and deliver dental~~
5 ~~benefits and services to enrollees of the capitated managed care~~
6 ~~delivery model of the state Medicaid program~~ that handles claims
7 payment and prior authorizations and coordinates dental care with
8 participating providers and Medicaid members;

9 ~~5.~~ 10. "Essential community provider" has the same meaning as
10 provided by means:

- 11 a. a Federally Qualified Health Center,
- 12 b. a community mental health center,
- 13 c. an Indian Health Care Provider,
- 14 d. a rural health clinic,
- 15 e. a state-operated mental health hospital,
- 16 f. a long-term care hospital serving children (LTCH-C),
- 17 g. a teaching hospital owned, jointly owned, or
18 affiliated with and designated by the University
19 Hospitals Authority, University Hospitals Trust,
20 Oklahoma State University Medical Authority, or
21 Oklahoma State University Medical Trust,
- 22 h. a provider employed by or contracted with, or
23 otherwise a member of the faculty practice plan of:

24

1 n. any provider not otherwise mentioned in this paragraph
2 that meets the definition of "essential community
3 provider" under 45 C.F.R., Section 156.235;

4 ~~6. "Managed care organization" means a health plan under~~
5 ~~contract with the Oklahoma Health Care Authority to participate in~~
6 ~~and deliver benefits and services to enrollees of the capitated~~
7 ~~managed care delivery model of the state Medicaid program;~~

8 ~~7.~~ 11. "Material change" includes, but is not limited to, any
9 change in overall business operations such as policy, process or
10 protocol which affects, or can reasonably be expected to affect,
11 more than five percent (5%) of enrollees or participating providers
12 of the contracted entity, managed care organization or dental
13 benefit manager;

14 ~~8.~~ 12. "Governing Body" means a group of individuals appointed
15 by the contracted entity who approve policies, operations,
16 profit/loss ratios, executive employment decisions, and who have
17 overall responsibility for the operations of the contracted entity
18 of which they are appointed;

19 13. "Local Oklahoma provider organization" means any state
20 provider association, accountable care organization, Certified
21 Community Behavioral Health Clinic, Federally Qualified Health
22 Center, Native American tribe or tribal association, hospital or
23 health system, academic medical institution, currently practicing
24

1 licensed provider, or other local Oklahoma provider organization as
2 approved by the Authority;

3 14. "Medical necessity" has the same meaning as provided by
4 rules ~~of~~ promulgated by the Oklahoma Health Care Authority Board;

5 ~~9.~~ 15. "Participating provider" means a provider who has a
6 contract with or is employed by a ~~managed care organization~~
7 contracted entity or dental benefit manager to provide services to
8 enrollees under the ~~capitated managed care delivery model of the~~
9 state Medicaid program Medicaid members as authorized by this act;
10 and

11 ~~10.~~ 16. "Provider" means a health care or dental provider
12 licensed or certified in this state or a provider that meets the
13 Authority's provider enrollment criteria to contract with the
14 Authority as a SoonerCare provider;

15 17. "Provider-led entity" means an organization or entity that
16 meets the following criteria:

17 a. a majority of the entity's ownership is held by
18 Medicaid providers in this state or is held by an
19 entity that directly or indirectly owns or is under
20 common ownership with Medicaid providers in this
21 state, or

22 b. a majority of the entity's governing body is composed
23 of individuals who:

24 (1) have experience serving Medicaid members and:

1 (a) are licensed in this state as physicians,
2 physician assistants, nurse practitioners,
3 certified nurse-midwives, or certified
4 registered nurse anesthetists,

5 (b) at least one board member is a licensed
6 behavioral health provider, or

7 (c) are employed by:

8 i. a hospital or other medical facility
9 licensed by this state and operating in
10 this state, or

11 ii. an inpatient or outpatient mental
12 health or substance abuse treatment
13 facility or program licensed or
14 certified by this state and operating
15 in this state,

16 (2) represent the providers or facilities described
17 in division 1 of this subparagraph including, but
18 not limited to, individuals who are employed by a
19 statewide provider association, or

20 (3) are nonclinical administrators of clinical
21 practices serving Medicaid members;

22 17. "Statewide" means all counties of this state including the
23 urban region; and

1 18. "Urban region" means all counties of this state with a
2 county population of not less than five hundred thousand (500,000)
3 according to the latest Federal Decennial Census, combined into one
4 region and the counties that are contiguous to the urban region.

5 SECTION 3. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 4002.3a of Title 56, unless
7 there is created a duplication in numbering, reads as follows:

8 A. 1. The Oklahoma Health Care Authority (OHCA) shall enter
9 into capitated contracts with contracted entities for the delivery
10 of Medicaid services as specified in this act to transform the
11 delivery system of the state Medicaid program for the Medicaid
12 populations listed in this section.

13 2. Unless expressly authorized by the Legislature, the
14 Authority shall not issue any request for proposals or enter into
15 any contract to transform the delivery system for the aged, blind,
16 and disabled populations eligible for SoonerCare.

17 B. 1. The Oklahoma Health Care Authority shall issue a request
18 for proposals to enter into public-private partnerships with
19 contracted entities other than dental benefit managers to cover all
20 Medicaid services other than dental services for the following
21 Medicaid populations:

- 22 a. pregnant women,
- 23 b. children,
- 24 c. deemed newborns,

- d. parents and caretaker relatives, and
- e. the expansion population.

2. The Authority shall specify the services to be covered in the request for proposals referenced in paragraph 1 of this subsection. Capitated contracts referenced in this subsection shall cover all Medicaid services other than dental services including:

- a. physical health services including, but not limited to:
 - (1) primary care,
 - (2) inpatient and outpatient services, and
 - (3) emergency room services,
- b. behavioral health services, and
- c. prescription drug services.

3. The Authority shall specify the services not covered in the request for proposals referenced in paragraph 1 of this subsection.

4. The implementation of the program shall be no later than October 1, 2023.

C. 1. The Authority shall issue a request for proposals to enter into public-private partnerships with dental benefit managers to cover dental services for the following Medicaid populations:

- a. pregnant women,
- b. children,
- c. parents and caretaker relatives,
- d. the expansion population, and

1 e. members of the Children's Specialty Plan as provided
2 by subsection D of this section.

3 2. The Authority shall specify the services to be covered in
4 the request for proposals referenced in paragraph 1 of this
5 subsection.

6 3. The implementation of the program shall be no later than
7 October 1, 2023.

8 D. 1. Either as part of the request for proposals referenced
9 in subsection B of this section or as a separate request for
10 proposals, the Authority shall issue a request for proposals to
11 enter into public-private partnerships with one contracted entity to
12 administer a Children's Specialty Plan.

13 2. The Authority shall specify the services to be covered in
14 the request for proposals referenced in paragraph 1 of this
15 subsection.

16 3. The contracted entity for the Children's Specialty Plan
17 shall coordinate with the dental benefit managers who cover dental
18 services for its members as provided by subsection C of this
19 section.

20 4. The implementation of the program shall be no later than
21 October 1, 2023.

22 E. The Authority shall not implement the transformation of the
23 Medicaid delivery system until it receives written confirmation from
24 the Centers for Medicare and Medicaid Services that a managed care

1 directed payment program utilizing average commercial rate
2 methodology for hospital services has been approved for Year 1 of
3 the transformation and will be included in the budget neutrality cap
4 baseline spending level for purposes of Oklahoma's 1115 waiver
5 renewal; provided, however, nothing in this section shall prohibit
6 the Authority from exploring alternative opportunities with the
7 Centers for Medicare and Medicaid Services to maximize the average
8 commercial rate benefit.

9 SECTION 4. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 4002.3b of Title 56, unless
11 there is created a duplication in numbering, reads as follows:

12 A. All capitated contracts shall be the result of requests for
13 proposals issued by the Oklahoma Health Care Authority and
14 submission of competitive bids by contracted entities pursuant to
15 the Oklahoma Central Purchasing Act.

16 B. Statewide capitated contracts may be awarded to any
17 contracted entity including, but not limited to, a provider-led
18 entity.

19 C. The Authority shall award no less than three statewide
20 capitated contracts to provide comprehensive integrated health
21 services including, but not limited to, medical, behavioral health,
22 and pharmacy services and no less than two capitated contracts to
23 provide dental coverage to Medicaid members as specified in Section
24 3 of this act.

1 D. 1. Except as specified in paragraph 2 of this subsection,
2 at least one capitated contract to provide statewide coverage to
3 Medicaid members shall be awarded to a provider-led entity, as long
4 as the provider-led entity submits a responsive reply to the
5 Authority's request for proposals demonstrating ability to fulfill
6 the contract requirements.

7 2. If no provider-led entity submits a responsive reply to the
8 Authority's request for proposals demonstrating ability to fulfill
9 the contract requirements, the Authority shall not be required to
10 contract for statewide coverage with a provider-led entity.

11 3. The Authority shall develop a scoring methodology for the
12 request for proposals that affords preferential scoring to provider-
13 led entities, as long as the provider-led entity otherwise
14 demonstrates ability to fulfill the contract requirements. The
15 preferential scoring methodology shall include opportunities to
16 award additional points to provider-led entities based on certain
17 factors including, but not limited to:

- 18 a. broad provider participation in ownership and
19 governance structure,
- 20 b. demonstrated experience in care coordination and care
21 management for Medicaid members across a variety of
22 service types including, but not limited to, primary
23 care and behavioral health,

1 c. demonstrated experience in Medicare or Medicaid
2 accountable care organizations or other Medicare or
3 Medicaid alternative payment models, Medicare or
4 Medicaid value-based payment arrangements, or Medicare
5 or Medicaid risk-sharing arrangements including, but
6 not limited to, innovation models of the Center for
7 Medicare and Medicaid Innovation of the Centers for
8 Medicare and Medicaid Services, or value-based payment
9 arrangements or risk-sharing arrangements in the
10 commercial health care market, and

11 d. other relevant factors identified by the Authority.

12 E. The Authority may select at least one provider-led entity
13 for the urban region if:

14 1. The provider-led entity submits a responsive reply to the
15 Authority's request for proposals demonstrating ability to fulfill
16 the contract requirements; and

17 2. The provider-led entity demonstrates the ability, and agrees
18 continually, to expand its coverage area throughout the contract
19 term to develop statewide operational readiness within a time frame
20 set by the Authority but not mandated before five (5) years.

21 F. At the discretion of the Authority, capitated contracts may
22 be extended to ensure there are no gaps in coverage that may result
23 from termination of a capitated contract; provided, the total
24

1 contracting period for a capitated contract shall not exceed seven
2 (7) years.

3 G. At the end of the contracting period, the Authority shall
4 solicit and award new contracts as provided by this section and
5 Section 3 of this act.

6 H. At the discretion of the Authority, subject to appropriate
7 notice to the Legislature and the Centers for Medicare and Medicaid
8 Services, the Authority may approve a delay in the implementation of
9 one or more capitated contracts to ensure financial and operational
10 readiness.

11 SECTION 5. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 4002.3c of Title 56, unless
13 there is created a duplication in numbering, reads as follows:

14 A. The Oklahoma Health Care Authority shall require each
15 contracted entity to ensure that Medicaid members who do not elect a
16 primary care provider are assigned to a provider, prioritizing
17 existing patient-provider relationships.

18 B. The Authority shall develop and implement a process for
19 assignment of Medicaid members to contracted entities.

20 C. The Authority may only utilize an opt-in enrollment process
21 for the voluntary enrollment of American Indians and Alaska Natives.
22 Notwithstanding any other provision of this act, the Authority shall
23 comply with all Indian provisions associated with Medicaid managed
24 care, including, but not limited to, the Social Security Act

1 1932 (a) (2) (C), the American Recovery and Reinvestment Act of 2009,
2 P.L. 111-5 (Feb. 17, 2009), Section 5006, The Children's Health
3 Insurance Program Reauthorization Act of 2009, P.L. 111-3 (Feb. 4,
4 2009), and the Centers for Medicare and Medicaid Services (CMS)
5 managed care protections, 25 C.F.R., 438.14.

6 D. In the event of the termination of a capitated contract with
7 a contracted entity during the contract duration, the Authority
8 shall reassign members to a remaining contracted entity with
9 demonstrated performance and capability. If no remaining contracted
10 entity is able to assume management for such members, the Authority
11 may select another contracted entity by application, as specified in
12 rules promulgated by the Oklahoma Health Care Authority Board, if
13 the financial, operation, and performance requirements can be met,
14 at the discretion of the Authority.

15 SECTION 6. AMENDATORY 56 O.S. 2021, Section 4002.4, is
16 amended to read as follows:

17 Section 4002.4 A. The Oklahoma Health Care Authority shall
18 develop network adequacy standards for all ~~managed care~~
19 ~~organizations and dental benefit managers~~ contracted entities that,
20 at a minimum, meet the requirements of 42 C.F.R., Sections ~~438.14~~
21 438.3, and 438.68. ~~Network adequacy standards established under~~
22 ~~this subsection shall be designed to ensure enrollees covered by the~~
23 ~~managed care organizations and dental benefit managers who reside in~~
24 ~~health professional shortage areas (HPSAs) designated under Section~~

1 ~~332(a) (1) of the Public Health Service Act (42 U.S.C., Section~~
2 ~~254e(a) (1)) have access to in-person health care and telehealth~~
3 ~~services with providers, especially adult and pediatric primary care~~
4 ~~practitioners.~~

5 B. ~~All managed care organizations and dental benefit managers~~
6 ~~shall meet or exceed network adequacy standards established by the~~
7 ~~Authority under subsection A of this section to ensure sufficient~~
8 ~~access to providers for enrollees of the state Medicaid program.~~

9 C. ~~All managed care organizations and dental benefit managers~~
10 ~~shall contract to the extent possible and practicable The Authority~~
11 ~~shall require all contracted entities to offer or extend contracts~~
12 ~~with all essential community providers, all providers who receive~~
13 ~~directed payments in accordance with 42 C.F.R., Part 438 and such~~
14 ~~other providers as the Authority may specify. The Authority shall~~
15 ~~establish such requirements as may be necessary to prohibit~~
16 ~~contracted entities from excluding essential community providers,~~
17 ~~providers who receive directed payments in accordance with 42~~
18 ~~C.F.R., Part 438 and such other providers as the Authority may~~
19 ~~specify from contracts with contracted entities.~~

20 ~~D. C. To ensure models of care are developed to meet the needs~~
21 ~~of Medicaid members, each contracted entity must contract with at~~
22 ~~least one local Oklahoma provider organization for a model of care~~
23 ~~containing care coordination, care management, utilization~~
24 ~~management, disease management, network management, or another model~~

1 of care as approved by the Authority. Such contractual arrangements
2 must be in place within twelve (12) months of the effective date of
3 the contracts awarded pursuant to the requests for proposals
4 authorized by Section 3 of this act.

5 D. All managed care organizations and dental benefit managers
6 contracted entities shall formally credential and recredential
7 network providers at a frequency required by a single, consolidated
8 provider enrollment and credentialing process established by the
9 Authority in accordance with 42 C.F.R., Section 438.214.

10 E. All managed care organizations and dental benefit managers
11 contracted entities shall be accredited in accordance with 45
12 C.F.R., Section 156.275 by an accrediting entity recognized by the
13 United States Department of Health and Human Services.

14 F. 1. If the Oklahoma Health Care Authority awards a capitated
15 contract to a provider-led entity for the urban region under Section
16 4 of this act, the provider-led entity may, as provided by the
17 contract with the Authority, expand its coverage area beyond the
18 urban region to counties for which the provider-led entity can
19 demonstrate evidence of network adequacy as required under 42
20 C.F.R., Sections 438.3 and 438.68 and as approved by Authority. If
21 approved, the additional county or counties shall be added to the
22 urban region during the next open enrollment period.

23 2. As provided by Section 4 of this act and by the contract
24 with the Authority, the provider-led entity shall expand its

1 coverage area to every county of this state on a timeline set by the
2 Authority but no sooner than five (5) years from the date of initial
3 award of the capitated contract.

4 SECTION 7. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 4002.4a of Title 56, unless
6 there is created a duplication in numbering, reads as follows:

7 A. 1. The Oklahoma Health Care Authority shall develop
8 standard contract terms for contracted entities to, include, but not
9 be limited to, all requirements stipulated by this act. The
10 Authority shall oversee and monitor performance of contracted
11 entities and shall enforce the terms of capitated contracts as
12 required by paragraph 2 of this subsection.

13 2. The Authority shall require each contracted entity to meet
14 all contractual and operational requirements as defined in the
15 requests for proposals issued pursuant to Section 3 of this act.
16 Such requirements shall include but not be limited to reimbursement
17 and capitation rates, insurance reserve requirements as specified by
18 the Insurance Department, acceptance of risk as defined by the
19 Authority, operational performance expectations including the
20 assessment of penalties, member marketing guidelines, other
21 applicable state and federal regulatory requirements, and all
22 requirements of this act including, but not limited to, the
23 requirements stipulated in this section.

24

1 B. The Authority shall develop methods to ensure program
2 integrity against provider fraud, waste, and abuse.

3 C. The Authority shall develop processes for providers and
4 Medicaid members to report violations by contracted entities of
5 applicable administrative rules, state laws, or federal laws.

6 SECTION 8. AMENDATORY 56 O.S. 2021, Section 4002.5, is
7 amended to read as follows:

8 Section 4002.5 A. A contracted entity shall be responsible for
9 all administrative functions for members enrolled in its plan
10 including, but not limited to, claims processing, authorization of
11 health services, care and case management, grievances and appeals,
12 and other necessary administrative services.

13 B. A contracted entity shall hold a certificate of authority as
14 a health maintenance organization issued by the Insurance
15 Department.

16 C. 1. To ensure providers have a voice in the direction and
17 operation of the contracted entities selected by the Oklahoma Health
18 Care Authority under Section 4 of this act, each contracted entity
19 shall have a shared governance structure that includes:

- 20 a. representatives of local Oklahoma provider
- 21 organizations who are Medicaid providers,
- 22 b. essential community providers, and
- 23 c. a representative from a teaching hospital owned,
- 24 jointly owned, or affiliated with and designated by

1 the University Hospitals Authority, University
2 Hospitals Trust, Oklahoma State University Medical
3 Authority, or Oklahoma State University Medical Trust.

4 2. No less than one-third (1/3) of the contracted entity's
5 board of directors shall be comprised of representatives of local
6 Oklahoma provider organizations.

7 3. No less than two members of the contracted entity's clinical
8 and quality committees shall be representatives of local Oklahoma
9 provider organizations, and the committees shall be chaired or co-
10 chaired by a representative of a local Oklahoma provider
11 organization.

12 D. A managed care organization or dental benefit manager
13 contracted entity shall promptly notify the Authority of all changes
14 materially material changes affecting the delivery of care or the
15 administration of its program.

16 B. E. A managed care organization or dental benefit manager
17 contracted entity shall have a medical loss ratio that meets the
18 standards provided by 42 C.F.R., Section 438.8.

19 C. F. A managed care organization or dental benefit manager
20 contracted entity shall provide patient data to a provider upon
21 request to the extent allowed under federal or state laws, rules or
22 regulations including, but not limited to, the Health Insurance
23 Portability and Accountability Act of 1996.

1 ~~D. G. A managed care organization or dental benefit manager~~
2 contracted entity or a subcontractor of ~~such managed care~~
3 ~~organization or dental benefit manager~~ a contracted entity shall not
4 enforce a policy or contract term with a provider that requires the
5 provider to contract for all products that are currently offered or
6 that may be offered in the future by the ~~managed care organization~~
7 ~~or dental benefit manager~~ contracted entity or subcontractor.

8 ~~E. H. Nothing in this act or in~~ a contract between the
9 Authority and a ~~managed care organization or dental benefit manager~~
10 contracted entity shall prohibit the ~~managed care organization or~~
11 ~~dental benefit manager~~ contracted entity from contracting with a
12 statewide or regional accountable care organization ~~to implement the~~
13 ~~capitated managed care delivery model of the state Medicaid program.~~

14 I. All contracted entities shall:

15 1. Use the same drug formulary, which shall be established by
16 the Authority; and

17 2. Ensure broad access to pharmacies including, but not limited
18 to, pharmacies contracted with covered entities under Section 340B
19 of the Public Health Service Act. Such access shall, at a minimum,
20 meet the requirements of the Patient's Right to Pharmacy Choice Act,
21 Section 6958 et seq. of Title 36 of the Oklahoma Statutes.

22 J. Each contracted entity and each participating provider shall
23 submit data through the state-designated entity for health
24 information exchange to ensure effective systems and connectivity to

1 support clinical coordination of care, the exchange of information,
2 and the availability of data to the Authority to manage the state
3 Medicaid program.

4 SECTION 9. AMENDATORY 56 O.S. 2021, Section 4002.6, is
5 amended to read as follows:

6 Section 4002.6 A. A managed care organization contracted
7 entity shall meet all requirements established by the Oklahoma
8 Health Care Authority pertaining to prior authorizations. The
9 Authority shall establish requirements that ensure timely
10 determinations by contracted entities when prior authorizations are
11 required including expedited review in urgent and emergent cases
12 that at a minimum meet the criteria of this section.

13 B. A contracted entity shall make a determination on a request
14 for an authorization of the transfer of a hospital inpatient to a
15 post-acute care or long-term acute care facility within twenty-four
16 (24) hours of receipt of the request.

17 ~~B. Review and issue determinations made by a managed care~~
18 ~~organization or, as appropriate, by a dental benefit manager for~~
19 ~~prior authorization for care ordered by primary care or specialist~~
20 ~~providers shall be timely and shall occur in accordance with the~~
21 ~~following:~~

22 ~~1. Within seventy two (72) hours of receipt of the~~

23 C. A contracted entity shall make a determination on a request
24 for any ~~patient~~ member who is not hospitalized at the time of the

1 request within seventy-two (72) hours of receipt of the request;
2 provided, that if the request does not include sufficient or
3 adequate documentation, the review and ~~issue~~ determination shall
4 occur within a time frame and in accordance with a process
5 established by the Authority. The process established by the
6 Authority pursuant to this ~~paragraph~~ subsection shall include a time
7 frame of at least forty-eight (48) hours within which a provider may
8 submit the necessary documentation.

9 ~~2. Within one (1) business day of receipt of the.~~

10 D. A contracted entity shall make a determination on a request
11 for services for a hospitalized patient member including, but not
12 limited to, acute care inpatient services or equipment necessary to
13 discharge the patient member from an inpatient facility, within one
14 (1) business day of receipt of the request.

15 ~~3. E. Notwithstanding the provisions of paragraphs 1 or 2 of~~
16 ~~this subsection C of this section, a contracted entity shall make a~~
17 determination on a request as expeditiously as necessary and, in any
18 event, within twenty-four (24) hours of receipt of the request for
19 service if adhering to the provisions of ~~paragraphs 1 or 2 of this~~
20 subsection C or D of this section could jeopardize the ~~enrollee's~~
21 member's life, health or ability to attain, maintain or regain
22 maximum function. In the event of a medically emergent matter, the
23 ~~managed care organization or dental benefit manager~~ contracted
24 entity shall not impose limitations on providers in coordination of

1 post-emergent stabilization health care including pre-certification
2 or prior authorization~~7.~~

3 ~~4. F.~~ Notwithstanding any other provision of this ~~subsection~~
4 section, a contracted entity shall make a determination on a request
5 for inpatient behavioral health services within twenty-four (24)
6 hours of receipt of the request ~~for inpatient behavioral health~~
7 ~~services; and~~

8 ~~5. Within twenty four (24) hours of receipt of the.~~

9 G. A contracted entity shall make a determination on a request
10 for covered prescription drugs that are required to be prior
11 authorized by the Authority within twenty-four (24) hours of receipt
12 of the request. The ~~managed care organization~~ contracted entity
13 shall not require prior authorization on any covered prescription
14 drug for which the Authority does not require prior authorization.

15 ~~C.~~ H. Upon issuance of an adverse determination on a prior
16 authorization request under subsection B of this section, the
17 managed care organization or dental benefit manager shall provide
18 the requesting provider, within seventy-two (72) hours of receipt of
19 such issuance, with reasonable opportunity to participate in a peer-
20 to-peer review process with a provider who practices in the same
21 specialty, but not necessarily the same sub-specialty, and who has
22 experience treating the same population as the patient on whose
23 behalf the request is submitted; provided, however, if the
24 requesting provider determines the services to be clinically urgent,

1 the managed care organization or dental benefit manager shall
2 provide such opportunity within twenty-four (24) hours of receipt of
3 such issuance. Services not covered under the state Medicaid
4 program for the particular patient shall not be subject to peer-to-
5 peer review.

6 ~~D.~~ I. The Authority shall ensure that a provider offers to
7 provide to an enrollee in a timely manner services authorized by a
8 managed care organization or dental benefit manager.

9 J. The Authority shall establish requirements for both internal
10 and external reviews and appeals of adverse determinations on prior
11 authorization requests or claims that, at a minimum:

12 1. Require contracted entities to provide a detailed
13 explanation of denials to Medicaid providers and members;

14 2. Require contracted entities to provide a prompt opportunity
15 for peer-to-peer conversations with licensed clinical staff of the
16 same or similar specialty which shall include, but not be limited
17 to, Oklahoma-licensed clinical staff upon adverse determination; and

18 3. Establish uniform rules for Medicaid provider or member
19 appeals across all contracted entities.

20 SECTION 10. AMENDATORY 56 O.S. 2021, Section 4002.7, is
21 amended to read as follows:

22 Section 4002.7 ~~A managed care organization or dental benefit~~
23 ~~manager shall~~

24

1 A. The Oklahoma Health Care Authority shall establish
2 requirements for fair processing and adjudication of claims that
3 ensure prompt reimbursement of providers by contracted entities. A
4 contracted entity shall comply with ~~the following requirements with~~
5 ~~respect to processing and adjudication of claims for payment~~
6 ~~submitted in good faith by providers for health care items and~~
7 ~~services furnished by such providers to enrollees of the state~~
8 ~~Medicaid program:~~ all such requirements.

9 ~~1. B. A managed care organization or dental benefit manager~~
10 contracted entity shall process a clean claim in the time frame
11 provided by Section 1219 of Title 36 of the Oklahoma Statutes and no
12 less than ninety percent (90%) of all clean claims shall be paid
13 within fourteen (14) days of submission to the ~~managed care~~
14 ~~organization or dental benefit manager~~ contracted entity. A clean
15 claim that is not processed within the time frame provided by
16 Section 1219 of Title 36 of the Oklahoma Statutes shall bear simple
17 interest at the monthly rate of one and one-half percent (1.5%)
18 payable to the provider. A claim filed by a provider within six (6)
19 months of the date the item or service was furnished to ~~an enrollee~~
20 a member shall be considered timely. If a claim meets the
21 definition of a clean claim, the ~~managed care organization or dental~~
22 ~~benefit manager~~ contracted entity shall not request medical records
23 of the ~~enrollee~~ member prior to paying the claim. Once a claim has
24 been paid, the ~~managed care organization or dental benefit manager~~

1 contracted entity may request medical records if additional
2 documentation is needed to review the claim for medical necessity~~7.~~

3 ~~2.~~ C. In the case of a denial of a claim including, but not
4 limited to, a denial on the basis of the level of emergency care
5 indicated on the claim, the ~~managed care organization or dental~~
6 ~~benefit manager~~ contracted entity shall establish a process by which
7 the provider may identify and provide such additional information as
8 may be necessary to substantiate the claim. Any such claim denial
9 shall include the following:

10 a. a

11 1. A detailed explanation of the basis for the denial~~7;~~ and

12 b. a

13 2. A detailed description of the additional information
14 necessary to substantiate the claim~~7.~~

15 ~~3.~~ D. Postpayment audits by a ~~managed care organization or~~
16 ~~dental benefit manager~~ contracted entity shall be subject to the
17 following requirements:

18 a. subject

19 1. Subject to ~~subparagraph b~~ paragraph 2 of this ~~paragraph~~
20 subsection, insofar as a ~~managed care organization or dental benefit~~
21 ~~manager~~ contracted entity conducts postpayment audits, the ~~managed~~
22 ~~care organization or dental benefit manager~~ contracted entity shall
23 employ the postpayment audit process determined by the Authority~~7;~~

24 b. the

1 2. The Authority shall establish a limit on the percentage of
2 claims with respect to which postpayment audits may be conducted by
3 a ~~managed care organization or dental benefit manager~~ contracted
4 entity for health care items and services furnished by a provider in
5 a plan year; ~~i~~ and

6 e. the

7 3. The Authority shall provide for the imposition of financial
8 penalties under such contract in the case of any ~~managed care~~
9 ~~organization or dental benefit manager~~ contracted entity with
10 respect to which the Authority determines has a claims denial error
11 rate of greater than five percent (5%). The Authority shall
12 establish the amount of financial penalties and the time frame under
13 which such penalties shall be imposed on ~~managed care organizations~~
14 ~~and dental benefit managers~~ contracted entities under this
15 ~~subparagraph~~ paragraph, in no case less than annually; ~~and.~~

16 4. E. A ~~managed care organization~~ contracted entity may only
17 apply readmission penalties pursuant to rules promulgated by the
18 Oklahoma Health Care Authority Board. The Board shall promulgate
19 rules establishing a program to reduce potentially preventable
20 readmissions. The program shall use a nationally recognized tool,
21 establish a base measurement year and a performance year, and
22 provide for risk-adjustment based on the population of the state
23 Medicaid program covered by the ~~managed care organizations and~~
24 ~~dental benefit managers~~ contracted entities.

1 SECTION 11. AMENDATORY 56 O.S. 2021, Section 4002.8, is
2 amended to read as follows:

3 Section 4002.8 A. A ~~managed care organization or dental~~
4 ~~benefit manager~~ contracted entity shall utilize uniform procedures
5 established by the Authority under subsection B of this section for
6 the review and appeal of any adverse determination by the ~~managed~~
7 ~~care organization or dental benefit manager~~ sought contracted entity
8 by any enrollee or provider adversely affected by such
9 determination.

10 B. The Authority shall develop procedures for ~~enrollee~~
11 enrollees or providers to seek review by the ~~managed care~~
12 ~~organization or dental benefit manager~~ contracted entity of any
13 adverse determination made by the ~~managed care organization or~~
14 ~~dental benefit manager~~ contracted entity. A provider shall have six
15 (6) months from the receipt of a claim denial to file an appeal.
16 With respect to appeals of adverse determinations made by a ~~managed~~
17 ~~care organization or dental benefit manager~~ contracted entity on the
18 basis of medical necessity, the following requirements shall apply:

19 1. Medical review staff of the ~~managed care organization or~~
20 ~~dental benefit manager~~ contracted entity shall be licensed or
21 credentialed health care clinicians with relevant clinical training
22 or experience; and

23 2. All ~~managed care organizations and dental benefit managers~~
24 contracted entities shall use medical review staff for such appeals

1 and shall not use any automated claim review software or other
2 automated functionality for such appeals.

3 C. Upon receipt of notice from the ~~managed care organization or~~
4 ~~dental benefit manager~~ contracted entity that the adverse
5 determination has been upheld on appeal, the enrollee or provider
6 may request a fair hearing from the Authority. The Authority shall
7 develop procedures for fair hearings in accordance with 42 C.F.R.,
8 Part 431.

9 SECTION 12. AMENDATORY 56 O.S. 2021, Section 4002.10, is
10 amended to read as follows:

11 Section 4002.10 ~~A.~~ The Oklahoma Health Care Authority shall
12 require a ~~managed care organization or dental benefit manager~~ all
13 contracted entities to participate in a readiness review in
14 accordance with 42 C.F.R., Section 438.66. The readiness review
15 shall assess the ability and capacity of the ~~managed care~~
16 ~~organization or dental benefit manager~~ contracted entity to perform
17 satisfactorily in such areas as may be specified in 42 C.F.R.,
18 Section 438.66. ~~In addition, the readiness review shall assess~~
19 ~~whether:~~

20 ~~1. The managed care organization or dental benefit manager has~~
21 ~~entered into contracts with providers to the extent necessary to~~
22 ~~meet network adequacy standards prescribed by Section 4 of this act;~~
23
24

1 ~~2. The contracts described in paragraph 1 of this subsection~~
2 ~~offer, but do not require, value based payment arrangements as~~
3 ~~provided by Section 12 of this act; and~~

4 ~~3. The managed care organization or dental benefit manager and~~
5 ~~the providers described in paragraph 1 of this subsection have~~
6 ~~established and tested data infrastructure such that exchange of~~
7 ~~patient data can reasonably be expected to occur within one hundred~~
8 ~~twenty (120) calendar days of execution of the transition of the~~
9 ~~delivery system described in subsection B of this section. The~~
10 ~~Authority shall assess its ability to facilitate the exchange of~~
11 ~~patient data, claims, coordination of benefits and other components~~
12 ~~of a managed care delivery model.~~

13 ~~B. The Oklahoma Health Care Authority may only execute the~~
14 ~~transition of the delivery system of the state Medicaid program to~~
15 ~~the capitated managed care delivery model of the state Medicaid~~
16 ~~program ninety (90) days after the Centers for Medicare and Medicaid~~
17 ~~Services has approved all contracts entered into between the~~
18 ~~Authority and all managed care organizations and dental benefit~~
19 ~~managers following submission of the readiness reviews to the~~
20 ~~Centers for Medicare and Medicaid Services.~~

21 SECTION 13. AMENDATORY 56 O.S. 2021, Section 4002.11, is
22 amended to read as follows:

23 Section 4002.11 No later than one year following the execution
24 of the delivery model transition described in ~~Section 10 of this act~~

1 the Ensuring Access to Medicaid Act, the Oklahoma Health Care
2 Authority shall create a scorecard that compares ~~managed care~~
3 ~~organizations~~ each contracted entity and separately compares each
4 dental benefit ~~managers~~ manager. The scorecard shall report the
5 average speed of authorizations of services, rates of denials of
6 Medicaid reimbursable services when a complete authorization request
7 is submitted in a timely manner, enrollee member satisfaction survey
8 results, provider satisfaction survey results, and such other
9 criteria as the Authority may require. The scorecard shall be
10 compiled quarterly and shall consist of the information specified in
11 this section from the prior ~~year~~ quarter. The Authority shall
12 provide the most recent quarterly scorecard to all initial ~~enrollees~~
13 members during enrollment choice counseling following the
14 eligibility determination and prior to initial enrollment. The
15 Authority shall provide the most recent quarterly scorecard to all
16 ~~enrollees~~ members at the beginning of each enrollment period. The
17 Authority shall publish each quarterly scorecard on its public
18 Internet website.

19 SECTION 14. AMENDATORY 56 O.S. 2021, Section 4002.12, is
20 amended to read as follows:

21 Section 4002.12 A. ~~The~~ Until July 1, 2026, the Oklahoma Health
22 Care Authority shall establish minimum rates of reimbursement from
23 ~~managed care organizations and dental benefit managers~~ contracted
24 entities to providers who elect not to enter into value-based

1 payment arrangements under subsection B of this section or other
2 alternative payment agreements for health care items and services
3 furnished by such providers to enrollees of the state Medicaid
4 program. Until July 1, 2026, such reimbursement rates shall be
5 equal to or greater than:

6 1. For an item or service provided by a participating provider
7 who is in the network of the managed care organization or dental
8 benefit manager, one hundred percent (100%) of the reimbursement
9 rate for the applicable service in the applicable fee schedule of
10 the Authority; or

11 2. For an item or service provided by a non-participating
12 provider or a provider who is not in the network of the managed care
13 organization or dental benefit manager, ninety percent (90%) of the
14 reimbursement rate for the applicable service in the applicable fee
15 schedule of the Authority as of January 1, 2021.

16 B. ~~A managed care organization or dental benefit manager~~
17 contracted entity shall offer value-based payment arrangements to
18 all providers in its network capable of entering into value-based
19 payment arrangements. Such arrangements shall be optional for the
20 provider but shall be tied to reimbursement incentives when quality
21 metrics are met. The quality measures used by a managed care
22 organization or dental benefit manager to determine reimbursement
23 amounts to providers in value-based payment arrangements shall align
24

1 with the quality measures of the Authority for ~~managed care~~
2 ~~organizations or dental benefit managers~~ contracted entities.

3 C. Notwithstanding any other provision of this section, the
4 Authority shall comply with payment methodologies required by
5 federal law or regulation for specific types of providers including,
6 but not limited to, Federally Qualified Health Centers, rural health
7 clinics, pharmacies, Indian Health Care Providers and emergency
8 services.

9 D. All rural health clinics (RHCs) shall be offered contracts
10 that will reimburse them using the methodology in place for each
11 specific RHC prior to January 1, 2023, including any and all annual
12 rate updates. Future RHC developments will be based on the federal
13 program rules and requirements, and this new commercially managed
14 Medicaid program will not interfere with the program as designed.

15 E. The Oklahoma Health Care Authority shall establish minimum
16 rates of reimbursement from contracted entities to Certified
17 Community Behavioral Health Clinic (CCBHC) providers who elect
18 alternative payment arrangements equal to the prospective payment
19 system rate under the Medicaid State Plan.

20 F. The Authority is given flexibility to work with physicians
21 and other providers not including hospitals to design an incentive
22 payment in accordance with paragraph 1 of subsection C of Section
23 3241.3 of Title 63 of the Oklahoma Statutes that is determined by
24 value-based outcomes except for anesthesia which shall continue to

1 be paid at the Medicaid rate as of the passage of this act.
2 Physicians and providers may contract with multiple contracted
3 entities.

4 G. Psychologist reimbursement shall reflect outcomes and
5 include bill codes beyond reimbursement for therapy to be able to
6 obtain reimbursement for testing and assessment.

7 H. Coverage for Medicaid ground transportation services by
8 licensed Oklahoma emergency medical services should be reimbursed at
9 no less than the published Medicaid rates as set by the Authority.
10 All currently published Medicaid HCPC codes paid by OHCA will
11 continue to be paid by the contracted entity. The contracted entity
12 will continue to follow the reimbursement policies established by
13 the Authority for the ambulance providers. Such policies shall
14 include but are not limited to: emergency medical transportation not
15 being required for prior authorization; and the contracted entities
16 will accept the CMS modifiers currently in use by Medicare at the
17 time of the transport of a member that is a dual eligible.

18 I. The Authority shall specify in the requests for proposals a
19 reasonable time frame in which a contracted entity shall have
20 entered into a certain percentage, as determined by the Authority,
21 of value-based contracts with providers.

22 J. Capitation rates established by the Oklahoma Health Care
23 Authority and paid to contracted entities under capitated contracts
24 shall be updated annually and in accordance with 42 C.F.R. Section

1 438.36(c) and approved as actuarially sound as determined by CMS in
2 accordance with 42 C.F.R. Section 438.4 and the following:

3 1. Actuarial calculations must include utilization and
4 expenditure assumptions consistent with industry and local
5 standards; and

6 2. Risk-adjusted and shall include a portion that is at risk
7 for achievement of quality and outcomes measures.

8 K. The Authority may establish a symmetric risk corridor for
9 contracted entities.

10 L. The Authority shall create a program for annual recovery by
11 the State a portion of funds from contracted entities when they
12 exceed their medical loss ratio.

13 SECTION 15. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4002.12a of Title 56, unless
15 there is created a duplication in numbering, reads as follows:

16 Any dental managed care program shall include the following
17 components:

18 1. All contracted entities with a dental contract shall be
19 required to maintain a Medicaid Dental Advisory Committee, comprised
20 exclusively of Oklahoma-licensed dentists and specialists, to advise
21 contracted entities regarding quality measures in the dental managed
22 care program.

23 2. Dental providers shall not be required to enter into
24 capitated contracts with a dental contracted entity.

1 SECTION 16. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4002.12b of Title 56, unless
3 there is created a duplication in numbering, reads as follows:

4 A. The Oklahoma Health Care Authority shall ensure the
5 sustainability of the transformed Medicaid delivery system.

6 B. The Authority shall ensure that existing revenue sources
7 designated for the state share of Medicaid expenses are designed to
8 maximize federal matching funds for the benefit of providers and the
9 state.

10 C. The Authority shall develop a plan, utilizing waivers or
11 Medicaid state plan amendments as necessary, to preserve or increase
12 supplemental payments available to providers with existing revenue
13 sources as provided in the Oklahoma Statutes including, but not
14 limited to:

15 1. Hospitals that participate in the supplemental hospital
16 offset payment program as provided by Section 3241.3 of Title 63 of
17 the Oklahoma Statutes;

18 2. Hospitals in this state that have Level I trauma centers, as
19 defined by the American College of Surgeons, that provide inpatient
20 and outpatient services and are owned or operated by the University
21 Hospitals Trust, or affiliates or locations of those hospitals
22 designated by the Trust as part of the hospital trauma system; and

23 3. Providers employed by or contracted with, or otherwise a
24 member of the faculty practice plan of:

- 1 a. a public, accredited Oklahoma medical school, or
2 b. a hospital or health care entity directly or
3 indirectly owned or operated by the University
4 Hospitals Trust or the Oklahoma State University
5 Medical Trust.

6 D. Subject to approval by the Centers for Medicare and Medicaid
7 Services, the Authority shall preserve and, to the maximum extent
8 permissible under federal law, improve existing levels of funding
9 through directed payments or other mechanisms outside the capitated
10 rate to contracted entities, including, where applicable, the use of
11 a directed payment program with an average commercial rate
12 methodology, subject to approval by the Centers for Medicare and
13 Medicaid Services. The directed payment methodology shall be found
14 in Sections 3241.2 through 3241.4 of Title 63 of the Oklahoma
15 Statutes.

16 E. On or before January 31, 2023, the Authority shall submit a
17 report to the Oklahoma Health Care Authority Board, the Chair of the
18 Appropriations Committee of the Oklahoma State Senate, and the Chair
19 of the Appropriations and Budget Committee of the Oklahoma House of
20 Representatives that includes the Authority's plans to continue
21 supplemental payment programs and implement a managed care directed
22 payment program for hospital services that complies with the reforms
23 required by this act. If Medicaid-specific funding cannot be
24 maintained as currently implemented and authorized by state law, the

1 Authority shall propose to the Legislature any modifications
2 necessary to preserve supplemental payments and managed care
3 directed payments to prevent budgetary disruptions to providers.

4 F. The Authority shall submit a report to the Governor, the
5 President Pro Tempore of the Oklahoma State Senate and the Speaker
6 of the Oklahoma House of Representatives that includes at a minimum:

7 1. A description of the selection process of the contracted
8 entities;

9 2. Plans for enrollment of Medicaid members in health plans of
10 contracted entities;

11 3. Medicaid member network access standards;

12 4. Performance and quality metrics;

13 5. Maintenance of existing funding mechanisms described in this
14 section;

15 6. A description of the requirements and other provisions
16 included in capitated contracts; and

17 7. A full and complete copy of each executed capitated
18 contract.

19 SECTION 17. AMENDATORY 56 O.S. 2021, Section 4002.13, is
20 amended to read as follows:

21 Section 4002.13 A. ~~There is hereby created the MC~~ The Oklahoma
22 Health Care Authority shall establish a Medicaid Delivery System
23 Quality Advisory Committee for the purpose of performing the duties
24 specified in subsection B of this section.

1 B. The ~~primary power and duty of the~~ Committee shall ~~be~~ have
2 the power and duty to make recommendations to the Administrator of
3 the Oklahoma Health Care Authority and the Oklahoma Health Care
4 Authority Board on quality measures used by ~~managed care~~
5 ~~organizations and dental benefit managers~~ contracted entities in the
6 capitated ~~managed~~ care delivery model of the state Medicaid program.

7 C. 1. The Committee shall be comprised of members appointed by
8 the Administrator of the Oklahoma Health Care Authority. Members
9 shall serve at the pleasure of the Administrator.

10 2. A majority of the members shall be providers participating
11 in the capitated ~~managed~~ care delivery model of the state Medicaid
12 program, and such providers may include members of the Advisory
13 Committee on Medical Care for Public Assistance Recipients. Other
14 members shall include, but not be limited to, representatives of
15 hospitals and integrated health systems, other members of the health
16 care community, and members of the academic community having
17 subject-matter expertise in the field of health care or subfields of
18 health care, or other applicable fields including, but not limited
19 to, statistics, economics or public policy.

20 3. The Committee shall select from among its membership a chair
21 and vice chair.

22 ~~E.~~ D. 1. The Committee may meet as often as may be required in
23 order to perform the duties imposed on it.

1 2. A quorum of the Committee shall be required to approve any
2 final ~~action~~ recommendations of the Committee. A majority of the
3 members of the Committee shall constitute a quorum.

4 3. Meetings of the Committee shall be subject to the Oklahoma
5 Open Meeting Act.

6 ~~F.~~ E. Members of the Committee shall receive no compensation or
7 travel reimbursement.

8 ~~G.~~ F. The Oklahoma Health Care Authority shall provide staff
9 support to the Committee. To the extent allowed under federal or
10 state law, rules or regulations, the Authority, the State Department
11 of Health, the Department of Mental Health and Substance Abuse
12 Services and the Department of Human Services shall as requested
13 provide technical expertise, statistical information, and any other
14 information deemed necessary by the chair of the Committee to
15 perform the duties imposed on it.

16 SECTION 18. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 4002.14 of Title 56, unless
18 there is created a duplication in numbering, reads as follows:

19 A. The transformed delivery system of the state Medicaid
20 program and capitated contracts awarded under the transformed
21 delivery system shall be designed with uniform defined measures and
22 goals that are consistent across contracted entities including, but
23 not limited to, adjusted health outcomes, social determinants of
24

1 health, quality of care, member satisfaction, provider satisfaction,
2 access to care, network adequacy, and cost.

3 B. Prior to implementation of the transformed Medicaid delivery
4 system, each contracted entity shall use nationally recognized,
5 standardized provider quality metrics as established by the Oklahoma
6 Health Care Authority and, where applicable, may use additional
7 quality metrics if the measures are mutually agreed upon by the
8 Authority, the contracted entity, and participating providers. The
9 Authority shall develop processes for determining quality metrics
10 and cascading quality metrics from contracted entities to
11 subcontractors and providers.

12 C. The Authority may use consultants, organizations, or
13 measures used by health plans, the federal government, or other
14 states to develop effective measures for outcomes and quality
15 including, but not limited to, the National Committee for Quality
16 Assurance (NCQA) or the Healthcare Effectiveness Data and
17 Information Set (HEDIS) established by NCQA, the Physician
18 Consortium for Performance Improvement (PCPI) or any measures
19 developed by PCPI.

20 D. Each component of the quality metrics established by the
21 Authority shall be subject to specific accountability measures
22 including, but not limited to, penalties for noncompliance.

23 SECTION 19. AMENDATORY 56 O.S. 2021, Section 4004, is
24 amended to read as follows:

1 Section 4004. A. The Oklahoma Health Care Authority shall seek
2 any federal approval necessary to implement ~~this act~~ the Ensuring
3 Access to Medicaid Act. This shall include, but not be limited to,
4 submission to the Centers for Medicare and Medicaid Services of any
5 appropriate demonstration waiver application or Medicaid State Plan
6 amendment necessary to accomplish the requirements of this act
7 within the required time frames. Prior to implementation of the
8 managed care contracts, the Authority shall obtain federal approval
9 of a managed care directed payment program with an average
10 commercial rate methodology. The directed payment methodology shall
11 be found in Sections 3241.2 through 3241.4 of Title 63 of the
12 Oklahoma Statutes. Dental managed care shall be exempt from the
13 requirement of CMS approval of the directed payment program.

14 B. The Oklahoma Health Care Authority Board shall promulgate
15 rules to implement ~~this act~~ the Ensuring Access to Medicaid Act.

16 SECTION 20. AMENDATORY 63 O.S. 2021, Section 5009, is
17 amended to read as follows:

18 Section 5009. A. ~~On and after July 1, 1993, the Oklahoma~~
19 ~~Health Care Authority shall be the state entity designated by law to~~
20 ~~assume the responsibilities for the preparation and development for~~
21 ~~converting the present delivery of the Oklahoma Medicaid Program to~~
22 ~~a managed care system. The system shall emphasize:~~

23 1. ~~Managed care principles, including a capitated, prepaid~~
24 ~~system with either full or partial capitation, provided that highest~~

1 ~~priority shall be given to development of prepaid capitated health~~
2 ~~plans;~~

3 ~~2. Use of primary care physicians to establish the appropriate~~
4 ~~type of medical care a Medicaid recipient should receive; and~~

5 ~~3. Preventative care.~~

6 ~~The Authority shall also study the feasibility of allowing a~~
7 ~~private entity to administer all or part of the managed care system.~~

8 ~~B.~~ On and after January 1, 1995, the Oklahoma Health Care
9 Authority shall be the designated state agency for the
10 administration of the Oklahoma Medicaid Program.

11 1. The Authority shall contract with the Department of Human
12 Services for the determination of Medicaid eligibility and other
13 administrative or operational functions related to the Oklahoma
14 Medicaid Program as necessary and appropriate.

15 2. To the extent possible and appropriate, upon the transfer of
16 the administration of the Oklahoma Medicaid Program, the Authority
17 shall employ the personnel of the Medical Services Division of the
18 Department of Human Services.

19 3. The Department of Human Services and the Authority shall
20 jointly prepare a transition plan for the transfer of the
21 administration of the Oklahoma Medicaid Program to the Authority.
22 The transition plan shall include provisions for the retraining and
23 reassignment of employees of the Department of Human Services
24 affected by the transfer. The transition plan shall be submitted to

1 the Governor, the President Pro Tempore of the Senate and the
2 Speaker of the House of Representatives on or before January 1,
3 1995.

4 ~~C.~~ B. In order to provide adequate funding for the unique
5 training and research purposes associated with the demonstration
6 program conducted by the entity described in paragraph 7 of
7 subsection B of Section 6201 of Title 74 of the Oklahoma Statutes,
8 and to provide services to persons without regard to their ability
9 to pay, the Oklahoma Health Care Authority shall analyze the
10 feasibility of establishing a Medicaid reimbursement methodology for
11 nursing facilities to provide a separate Medicaid payment rate
12 sufficient to cover all costs allowable under Medicare principles of
13 reimbursement for the facility to be constructed or operated, or
14 constructed and operated, by the organization described in paragraph
15 7 of subsection B of Section 6201 of Title 74 of the Oklahoma
16 Statutes.

17 SECTION 21. AMENDATORY 63 O.S. 2021, Section 5009.2, is
18 amended to read as follows:

19 Section 5009.2 A. The Advisory Committee on Medical Care for
20 Public Assistance Recipients, created by the Oklahoma Health Care
21 Authority pursuant to 42 Code of Federal Regulations, Section
22 431.12, for the purpose of advising the Authority about health and
23 medical care services, shall include among its membership of no more
24 than fifteen (15) the following:

1 1. Board-certified physicians and other representatives of the
2 health professions who are familiar with the medical needs of low-
3 income population groups and with the resources available and
4 required for their care. The Advisory Committee shall, at all
5 times, include at least one physician from each of the six classes
6 of physicians listed in Section 725.2 of Title 59 of the Oklahoma
7 Statutes. The Advisory Committee shall at all times include at
8 least one pharmacist and one psychologist licensed in this state.
9 All such physicians and other representatives of the health
10 professions shall be participating providers in the State Medicaid
11 Plan;

12 2. Members of consumers' groups, including, but not limited to:
13 a. Medicaid recipients, and
14 b. representatives from consumer organizations including
15 a member representing nursing homes, a member
16 representing individuals with developmental
17 disabilities and a member representing one or more
18 behavioral health professions;

19 3. The Director of the Department of Human Services or
20 designee;

21 4. The Commissioner of Mental Health and Substance Abuse
22 Services or designee;

23 5. A member approved and appointed by a state organization or
24 state chapter of a national organization of pediatricians dedicated

1 to the health, safety and well-being of infants, children,
2 adolescents and young adults, who shall:

3 a. monitor provider relations with the Oklahoma Health
4 Care Authority, and

5 b. create a forum to address grievances; ~~and~~

6 6. Members who are representatives of a statewide association
7 representing rural and urban hospitals; and

8 7. A member who is a member or citizen of a federally
9 recognized American Indian tribe or nation whose primary tribal
10 headquarters is located in this state.

11 Beginning on January 1, 2022, appointments made to the Advisory
12 Committee shall be for a duration not to exceed four (4) consecutive
13 calendar years.

14 B. The Advisory Committee shall meet bimonthly to review and
15 make recommendations related to:

16 1. Policy development and program administration;

17 2. Policy changes proposed by the Authority prior to
18 consideration of such changes by the Authority;

19 3. Financial concerns related to the Authority and the
20 administration of the programs under the Authority; and

21 4. Other pertinent information related to the management and
22 operation of the Authority and the delivery of health and medical
23 care services.

24

1 C. 1. The Administrator of the Authority shall provide such
2 staff support and independent technical assistance as needed by the
3 Advisory Committee to enable the Advisory Committee to make
4 effective recommendations.

5 2. The Advisory Committee shall elect from among its members a
6 chair and a vice-chair who shall serve one-year terms. A member may
7 serve more than one (1), but not more than four (4), consecutive
8 one-year terms as chair or vice-chair. A majority of the members of
9 the Advisory Committee shall constitute a quorum to transact
10 business, but no vacancy shall impair the right of the remaining
11 members to exercise all of the powers of the Advisory Committee.

12 3. Members shall not receive any compensation for their
13 services but shall be reimbursed pursuant to the provisions of the
14 State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of
15 the Oklahoma Statutes.

16 D. The Authority shall give due consideration to the comments
17 and recommendations of the Advisory Committee in the Authority's
18 deliberations on policies, administration, management and operation
19 of the Authority.

20 SECTION 22. AMENDATORY 36 O.S. 2021, Section 312.1, is
21 amended to read as follows:

22 Section 312.1 A. For the fiscal year ending June 30, 2004, the
23 Insurance Commissioner shall report and disburse one hundred percent
24 (100%) of the fees and taxes collected under Section 624 of this

1 title to the State Treasurer to be deposited to the credit of the
2 Education Reform Revolving Fund of the State Department of
3 Education. The Insurance Commissioner shall keep an accurate record
4 of all such funds and make an itemized statement and furnish same to
5 the State Auditor and Inspector, as to all other departments of this
6 state. The report shall be accompanied by an affidavit of the
7 Insurance Commissioner or the Chief Clerk of such office certifying
8 to the correctness thereof.

9 B. The Insurance Commissioner shall apportion an amount of the
10 taxes and fees received from Section 624 of this title, which shall
11 be at least One Million Two Hundred Fifty Thousand Dollars
12 (\$1,250,000.00) each year, but which shall also be computed on an
13 annual basis by the Commissioner as the amount of insurance premium
14 tax revenue loss attributable to the provisions of subsection H of
15 Section 625.1 of this title and increased if necessary to reflect
16 the annual computation, and which shall be apportioned before any
17 other amounts, as follows:

18 1. The following amounts shall be paid to the Oklahoma
19 Firefighters Pension and Retirement Fund in the manner provided for
20 in Sections 49-119, 49-120 and 49-123 of Title 11 of the Oklahoma
21 Statutes:

Fiscal Year	Amount
FY 2006 through FY 2020	65.0%
FY 2021 as follows:	

1	a.	for the month beginning July 1,	
2		2020, through the month ending	
3		August 31, 2020	65.0%
4	b.	for the month beginning September	
5		1, 2020, through the month ending	
6		June 30, 2021	45.5%
7		FY 2022 and each fiscal year thereafter	65.0%;

8 2. The following amounts shall be paid to the Oklahoma Police
9 Pension and Retirement System pursuant to the provisions of Sections
10 50-101 through 50-136 of Title 11 of the Oklahoma Statutes:

11	Fiscal Year	Amount	
12	FY 2006 through FY 2020	26.0%	
13	FY 2021 as follows:		
14	a.	for the month beginning July 1,	
15		2020, through the month ending	
16		August 31, 2020	26.0%
17	b.	for the month beginning September	
18		1, 2020, through the month ending	
19		June 30, 2021	18.2%
20		FY 2022 and each fiscal year thereafter	26.0%;

21 3. The following amounts shall be paid to the Law Enforcement
22 Retirement Fund:

23	Fiscal Year	Amount
24	FY 2006 through FY 2020	9.0%

1 FY 2021 as follows:

2 a. for the month beginning July 1,
3 2020, through the month ending
4 August 31, 2020 9.0%

5 b. for the month beginning September
6 1, 2020, through the month ending
7 June 30, 2021 6.3%

8 FY 2022 and each fiscal year thereafter 9.0%; and

9 4. The following amounts shall be paid to the Education Reform
10 Revolving Fund of the State Department of Education:

11 Fiscal Year	Amount
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12 FY 2021 as follows:

13 for the month beginning September 1, 14 2020, through the month ending June 30, 15 2021	30.0%.
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16 C. After the apportionment required by subsection B of this
17 section, for the fiscal years beginning July 1, 2004, and ending
18 June 30, 2009, the Insurance Commissioner shall report and disburse
19 all of the fees and taxes collected under Section 624 of this title
20 and Section 2204 of this title, and the same are hereby apportioned
21 as follows:

22 1. Thirty-four percent (34%) of the taxes collected on premiums
23 shall be allocated and disbursed for the Oklahoma Firefighters
24

1 Pension and Retirement Fund, in the manner provided for in Sections
2 49-119, 49-120 and 49-123 of Title 11 of the Oklahoma Statutes;

3 2. Seventeen percent (17%) of the taxes collected on premiums
4 shall be allocated and disbursed to the Oklahoma Police Pension and
5 Retirement System pursuant to the provisions of Sections 50-101
6 through 50-136 of Title 11 of the Oklahoma Statutes;

7 3. Six and one-tenth percent (6.1%) of the taxes collected on
8 premiums shall be allocated and disbursed to the Law Enforcement
9 Retirement Fund; and

10 4. All the balance and remainder of the taxes and fees provided
11 in Section 624 of this title shall be paid to the State Treasurer to
12 the credit of the General Revenue Fund of the state to provide
13 revenue for general functions of state government. The Insurance
14 Commissioner shall keep an accurate record of all such funds and
15 make an itemized statement and furnish same to the State Auditor and
16 Inspector, as to all other departments of this state. The report
17 shall be accompanied by an affidavit of the Insurance Commissioner
18 or the Chief Clerk of such office certifying to the correctness
19 thereof.

20 D. After the apportionment required by subsection B of this
21 section, the Insurance Commissioner shall report and disburse all of
22 the fees and taxes collected under Section 624 of this title and
23 Section 2204 of this title, and the same are hereby apportioned as
24 follows:

1 1. Of the taxes collected on premiums the following shall be
2 allocated and disbursed for the Oklahoma Firefighters Pension and
3 Retirement Fund, in the manner provided for in Sections 49-119, 49-
4 120 and 49-123 of Title 11 of the Oklahoma Statutes:

5 Fiscal Year	Amount
6 FY 2006 through FY 2020	36.0%
7 FY 2021 as follows:	
8 a. for the month beginning July 1,	
9 2020, through the month ending	
10 August 31, 2020	36.0%
11 b. for the month beginning September	
12 1, 2020, through the month ending	
13 June 30, 2021	25.2%
14 FY 2022	36.0%
15 FY 2023 through FY 2027	37.8%
16 FY 2028 and each fiscal year thereafter	36.0%;

17 2. Of the taxes collected on premiums the following shall be
18 allocated and disbursed to the Oklahoma Police Pension and
19 Retirement System pursuant to the provisions of Sections 50-101
20 through 50-136 of Title 11 of the Oklahoma Statutes:

21 Fiscal Year	Amount
22 FY 2006 through FY 2020	14.0%
23 FY 2021 as follows:	
24	

1	a.	for the month beginning July 1,	
2		2020, through the month ending	
3		August 31, 2020	14.0%
4	b.	for the month beginning September	
5		1, 2020, through the month ending	
6		June 30, 2021	9.8%
7	FY 2022		14.0%
8	FY 2023 through FY 2027		14.7%
9	FY 2028 and each fiscal year thereafter		14.0%;
10	3.	Of the taxes collected on premiums the following shall be	
11		allocated and disbursed to the Law Enforcement Retirement Fund:	
12	Fiscal Year		Amount
13	FY 2006 through FY 2020		5.0%
14	FY 2021 as follows:		
15	a.	for the month beginning July 1,	
16		2020, through the month ending	
17		August 31, 2020	5.0%
18	b.	for the month beginning September	
19		1, 2020, through the month ending	
20		June 30, 2021	3.5%
21	FY 2022		5.0%
22	FY 2023 through FY 2027		5.25%
23	FY 2028 and each fiscal year thereafter		5.0%;
24			

1 4. The following amounts shall be paid to the Education Reform
2 Revolving Fund of the State Department of Education:

3 Fiscal Year	Amount
4 FY 2021 as follows:	
5 for the month beginning September 1,	
6 2020, through the month ending June 30,	
7 2021	16.5%;

8 5. In addition to the allocations made pursuant to paragraphs
9 1, 2 and 3 of this subsection, of the taxes collected on premiums
10 the following amounts shall be allocated and disbursed annually for
11 FY 2023 through FY 2027:

- 12 a. Forty Thousand Six Hundred Twenty-five Dollars
13 (\$40,625.00) to the Oklahoma Firefighters Pension and
14 Retirement Fund,
- 15 b. Sixteen Thousand Two Hundred Fifty Dollars
16 (\$16,250.00) to the Oklahoma Police Pension and
17 Retirement System, and
- 18 c. Five Thousand Six Hundred Twenty-five Dollars
19 (\$5,625.00) to the Oklahoma Law Enforcement Retirement
20 Fund; and

21 6. All the balance and remainder of the taxes and fees provided
22 in Section 624 of this title shall be paid to the State Treasurer to
23 the credit of the General Revenue Fund of the state to provide
24 revenue for general functions of state government. The Insurance

1 Commissioner shall keep an accurate record of all such funds and
2 make an itemized statement and furnish same to the State Auditor and
3 Inspector, as to all other departments of this state. The report
4 shall be accompanied by an affidavit of the Insurance Commissioner
5 or the Chief Clerk of such office certifying to the correctness
6 thereof.

7 E. The disbursements provided for in subsections A, B, C and D
8 of this section shall be made monthly. The Insurance Commissioner
9 shall report annually to the Governor, the Speaker of the House of
10 Representatives, the President Pro Tempore of the Senate and the
11 State Auditor and Inspector, the amounts collected and disbursed
12 pursuant to this section.

13 F. Notwithstanding any other provision of law to the contrary,
14 no tax credit authorized by law enacted on or after July 1, 2008,
15 which may be used to reduce any insurance premium tax liability
16 shall be used to reduce the amount of insurance premium tax revenue
17 apportioned to the Oklahoma Firefighters Pension and Retirement
18 System, the Oklahoma Police Pension and Retirement System, the
19 Oklahoma Law Enforcement Retirement System or the Education Reform
20 Revolving Fund.

21 G. For fiscal year 2023, and each subsequent fiscal year,
22 before any other apportionment otherwise required by this section is
23 made, there shall be apportioned to the Medicaid Contingency
24 Revolving Fund, created in Section 1010.8 of Title 56 of the

1 Oklahoma Statutes, the portion of premium taxes and fees collected
2 under Section 624 of this title from contracted entities of the
3 Ensuring Access to Medicaid program of the Oklahoma Health Care
4 Authority for funding for the Medicaid Expansion Program.

5 SECTION 23. RECODIFICATION 56 O.S. 2021, Section 4004,
6 as amended by Section 20 of this act, shall be recodified as Section
7 4002.15 of Title 56 of the Oklahoma Statutes, unless there is
8 created a duplication in numbering.

9 SECTION 24. REPEALER 56 O.S. 2021, Sections 1010.2,
10 1010.3, 1010.4, and 1010.5, are hereby repealed.

11 SECTION 25. REPEALER 56 O.S. 2021, Sections 4002.3 and
12 4002.9, are hereby repealed.

13 SECTION 26. REPEALER 63 O.S. 2021, Sections 5009.5,
14 5011, and 5028, are hereby repealed.

15 SECTION 27. This act shall become effective July 1, 2022.

16 SECTION 28. It being immediately necessary for the preservation
17 of the public peace, health or safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

20 SECTION 29. This act shall become effective only if Engrossed
21 Senate Bill No. 1396 of the 2nd Session of the 58th Oklahoma
22 Legislature is enacted into law.

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