

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 470

By: Bergstrom

4
5
6 AS INTRODUCED

7 An Act relating to persons with disabilities;
8 creating the "Independence and Opportunity for
9 Persons with Disabilities Pilot Program Act";
10 providing short title; directing creation of and
11 describing pilot program; providing for application
12 and selection process; stating selection criteria;
13 allowing Oklahoma Health Care Authority and
14 Department of Human Services to share certain
15 information; describing application and selection
16 process; requiring certain informed consent; stating
17 application criteria; requiring submission and
18 approval of certain addendum; providing certain
19 transfer process; requiring certain assessment and
20 approval for services; requiring certain continuity
21 of services and funding; specifying applicability of
22 certain process; requiring compliance with certain
23 laws and rules; providing for licensure; providing
24 for completion of facility conversion; authorizing
certain conversion under certain conditions;
requiring certain program evaluation; stating
criteria of evaluation; directing Authority to seek
certain federal approval; directing promulgation of
rules; providing for codification; and providing an
effective date.

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

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1431 of Title 10, unless there
24 is created a duplication in numbering, reads as follows:

1 A. This section shall be known and may be cited as the
2 "Independence and Opportunity for Persons with Disabilities Pilot
3 Program Act".

4 B. There is hereby created the Independence and Opportunity for
5 Persons with Disabilities Pilot Program. Under the pilot program,
6 fifteen intermediate care facilities for individuals with
7 intellectual disabilities with twelve or fewer beds (ICFs/IID-12),
8 shall be selected by the Oklahoma Health Care Authority and the
9 Department of Human Services to convert to group homes for persons
10 with developmental or physical disabilities.

11 C. The Authority and the Department shall create an application
12 and selection process for the pilot program that ensures the
13 compliance of the selected facilities with applicable federal and
14 state laws and rules. For the Department, the selection criteria
15 and process shall, at a minimum, consist of all applicable licensing
16 or contracting requirements of group homes, and requirements related
17 to minimum standards as provided in Section 1430.11 of Title 10 of
18 the Oklahoma Statutes and rules promulgated pursuant thereto. In
19 selecting the pilot program participants, the Authority and the
20 Department shall compare services offered by each applicant and
21 consider the desires, capabilities and needs of residents based on
22 all available information including, but not limited to, the
23 individual habilitation plan of each resident. The Authority and
24 the Department may share information as necessary in accordance with

1 applicable federal and state laws and rules to carry out the
2 provisions of this section. The Authority and the Department shall
3 begin accepting applications ninety (90) calendar days, after the
4 Authority receives federal approval for the pilot program, and the
5 application period shall close ninety (90) calendar days thereafter.
6 Not more than ninety (90) calendar days after the end of the
7 application period, the Authority and the Department shall select
8 the fifteen most qualified applicants to participate in the pilot
9 program.

10 D. The Authority shall create and publish on the Authority's
11 website a consent form that must be signed by each resident or, if
12 the resident is incapacitated, the guardian of the resident of an
13 applying ICF/IID-12, who intends to continue to reside in the
14 facility if it is selected for the pilot program. The form shall
15 signify the informed consent of the resident or guardian to the
16 facility conversion and the understanding of the resident or
17 guardian that the facility conversion will not take effect unless
18 and until the facility is selected for the pilot program. In its
19 application submission, the ICF/IID-12 shall:

- 20 1. Include a copy of the signed consent form of each resident
21 who intends to reside in the group home;
- 22 2. Identify any current residents:
 - 23 a. who did not, or if incapacitated whose guardian did
24 not, consent to the facility conversion, or

1 b. who may need to remain in intermediate care facility-
2 level care. The Developmental Disability Services
3 Division of the Department of Human Services (DDSD)
4 shall make the final determination for the appropriate
5 level of care;

6 3. Include a plan to transfer to another intermediate care
7 facility for individuals with intellectual disabilities (ICF/IID)
8 each resident who did not, or if incapacitated whose guardian did
9 not, consent to the facility conversion, or who the applying
10 facility identifies as possibly needing to remain in intermediate
11 care facility-level care; and

12 4. Provide any additional information or documentation required
13 by the Authority or the Department.

14 E. Upon selection of the fifteen pilot program participants,
15 the Department shall notify each selected facility of which, if any,
16 of the facility's residents have been determined by DDSD as needing
17 to remain in intermediate care facility-level care. If any of the
18 residents identified by DDSD were not previously identified by the
19 facility in the application submission, the facility shall, not more
20 than fourteen (14) calendar days after receipt of the notification,
21 submit to the Authority and the Department an addendum to the
22 facility's application submission of a plan to transfer each such
23 resident. The Authority and the Department must approve the
24 addendum before the facility may execute the transfer. All

1 transfers of residents shall occur in a time period to be determined
2 by the Authority and the Department. For any current resident as of
3 the date of the application submission who did not, or if
4 incapacitated whose guardian did not, consent to the facility
5 conversion or who DDS determines should remain in intermediate care
6 facility-level care, the facility may fill the spot with another
7 prospective resident that the facility reasonably believes will be
8 determined by DDS to meet the criteria of a group home setting.
9 The prospective resident must be assessed by DDS and approved for
10 the group home setting in the same manner as all other residents
11 prior to the completion of the facility conversion.

12 F. Prior to the completion of the facility conversion, all
13 residents of the ICF/IID-12 who are SoonerCare members shall be
14 assessed and approved for appropriate services through the
15 Developmental Disability Services Division of the Department of
16 Human Services (DDS). No later than the date of completion of the
17 facility conversion, DDS shall begin providing appropriate services
18 to SoonerCare members. The Authority and the Department shall
19 ensure there is no interruption in appropriate services for each
20 SoonerCare member and no interruption in appropriate funding for the
21 facility. The Authority and the Department shall coordinate with
22 the Centers for Medicare and Medicaid Services to ensure, to the
23 extent practicable, there is no interruption in appropriate services
24 for SoonerCare members who also receive services through Medicare

1 and no interruption in appropriate funding for the facility. The
2 process outlined in this subsection shall only apply to current
3 residents of the ICF/IID-12 and prospective residents as provided in
4 subsection E of this section. All future residents of the group
5 home shall be subject to the standard DDS approval process.

6 G. Once the facility conversion is complete, the group home
7 shall comply with all applicable state and federal laws and rules
8 including, but not limited to, the Group Homes for Persons with
9 Developmental or Physical Disabilities Act and shall be subject to
10 all provisions of the act. The Department shall grant a group home
11 license to each facility selected for the pilot program in
12 accordance with the Group Homes for Persons with Developmental or
13 Physical Disabilities Act and shall enter into a contract with each
14 group home. The facility conversion shall be considered complete
15 when:

- 16 1. All necessary or authorized transfers have been executed;
- 17 2. All residents of each selected facility have been assessed
18 and approved for appropriate services as provided in subsection F of
19 this section;
- 20 3. The Department certifies that the facility is in compliance
21 with all applicable federal and state laws and rules governing group
22 homes; and
- 23 4. The Department has granted a license to the group home and
24 has entered into a contract with the group home.

1 H. A facility selected for the pilot program may, with the
2 approval of the Authority and the Department, convert back to an
3 ICF/IID-12. However, the ICF/IID-12 shall not be permitted to
4 convert to a group home more than once. In the event the pilot
5 program is not expanded into an unrestricted program or is
6 considered unsuccessful, the group home shall not be required to
7 convert back to an ICF/IID.

8 I. One year following implementation of the pilot program, the
9 Department shall evaluate the effectiveness of the pilot program and
10 submit a report to the President Pro Tempore of the Senate, the
11 Speaker of the House of Representatives and the Governor. Criteria
12 for the evaluation shall include, but not be limited to:

13 1. A questionnaire created by the Department to be administered
14 by the facility before and after the conversion to each resident or,
15 if applicable, guardian of the resident, gauging the following
16 criteria: perceived independence, vocational opportunity, and
17 feelings of inclusion;

18 2. A scaled numerical rating by residents, guardians and staff
19 on whether the facility conversion has increased the resident's
20 ability to function autonomously and independently;

21 3. A fiscal analysis of the pilot program including whether
22 cost savings were achieved; and

23 4. A survey created by the Department to be administered to
24 residents and guardians of residents, gauging the following criteria

1 regarding services received relative to services received before the
2 facility conversion and services that the resident or guardian of
3 the resident expected to receive after the facility conversion:

- 4 a. vocational services,
- 5 b. physical therapy,
- 6 c. occupational therapy,
- 7 d. speech and communication,
- 8 e. nutritional services,
- 9 f. psychological services,
- 10 g. family counseling,
- 11 h. habilitation training services, and
- 12 i. case management services.

13 J. The Authority shall seek any federal approval necessary to
14 implement the provisions of this section. The Oklahoma Health Care
15 Authority Board and the Director of the Department of Human Services
16 shall promulgate such rules as are necessary to implement the
17 provisions of this section.

18 SECTION 2. This act shall become effective November 1, 2021.

19
20 58-1-92 DC 1/19/2021 1:39:21 PM
21
22
23
24
25