

1 **SENATE FLOOR VERSION**

2 April 4, 2024

3 ENGROSSED HOUSE  
4 BILL NO. 3367

By: McEntire and Deck of the  
House

5 and

6 McCortney of the Senate

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9  
10 An Act relating to poor persons; amending 56 O.S.  
11 2021, Section 4002.2, as last amended by Section 1,  
12 Chapter 334, O.S.L. 2022 (56 O.S. Supp. 2023, Section  
13 4002.2), which relates to ensuring access to Medicaid  
14 Act; clarifying definition; and providing an  
15 effective date.

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

17 SECTION 1. AMENDATORY 56 O.S. 2021, Section 4002.2, as  
18 last amended by Section 1, Chapter 334, O.S.L. 2022 (56 O.S. Supp.  
19 2023, Section 4002.2), is amended to read as follows:

20 Section 4002.2 As used in the Ensuring Access to Medicaid Act:

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

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

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

6           4. "Capitated contract" means a contract between the Oklahoma  
7 Health Care Authority and a contracted entity for delivery of  
8 services to Medicaid members in which the Authority pays a fixed,  
9 per-member-per-month rate based on actuarial calculations;

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

- 13           a. children in foster care,
- 14           b. former foster care children up to twenty-five (25)  
15           years of age,
- 16           c. juvenile justice involved children, ~~and~~
- 17           d. children receiving adoption assistance,
- 18           e. children involved in a Family Centered Services (FCS)  
19           case through the Child Welfare Services division of  
20           the Department of Human Services,
- 21           f. children in the custody of the Department of Human  
22           Services and placed at home under court supervision,

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1           g. children who are placed at home in a trial  
2           reunification plan administered by the Department of  
3           Human Services, and

4           h. Medicaid enrolled parents and guardians whose children  
5           are in a Family Centered Services case, are in trial  
6           reunification, or are in the custody of the Department  
7           of Human Services in Foster Care or under court  
8           supervision;

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

17          7. "Commercial plan" means an organization or entity that  
18          undertakes to provide or arrange for the delivery of health care  
19          services to Medicaid members on a prepaid basis and is subject to  
20          all applicable federal and state laws and regulations;

21          8. "Contracted entity" means an organization or entity that  
22          enters into or will enter into a capitated contract with the  
23          Oklahoma Health Care Authority for the delivery of services  
24          specified in the Ensuring Access to Medicaid Act that will assume

1 financial risk, operational accountability, and statewide or  
2 regional functionality as defined in the Ensuring Access to Medicaid  
3 Act in managing comprehensive health outcomes of Medicaid members.  
4 For purposes of the Ensuring Access to Medicaid Act, the term  
5 contracted entity includes an accountable care organization, a  
6 provider-led entity, a commercial plan, a dental benefit manager, or  
7 any other entity as determined by the Authority;

8 9. "Dental benefit manager" means an entity that handles claims  
9 payment and prior authorizations and coordinates dental care with  
10 participating providers and Medicaid members;

11 10. "Essential community provider" means:

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

1 (1) a public, accredited medical school in this  
2 state, or

3 (2) a hospital or health care entity directly or  
4 indirectly owned or operated by the University  
5 Hospitals Trust or the Oklahoma State University  
6 Medical Trust,

7 i. a county department of health or city-county health  
8 department,

9 j. a comprehensive community addiction recovery center,

10 k. a hospital licensed by the State of Oklahoma including  
11 all hospitals participating in the Supplemental  
12 Hospital Offset Payment Program,

13 l. a Certified Community Behavioral Health Clinic  
14 (CCBHC),

15 m. a provider employed by or contracted with a primary  
16 care residency program accredited by the Accreditation  
17 Council for Graduate Medical Education,

18 n. any additional Medicaid provider as approved by the  
19 Authority if the provider either offers services that  
20 are not available from any other provider within a  
21 reasonable access standard or provides a substantial  
22 share of the total units of a particular service  
23 utilized by Medicaid members within the region during  
24 the last three (3) years, and the combined capacity of

1 other service providers in the region is insufficient  
2 to meet the total needs of the Medicaid members,  
3 o. a pharmacy or pharmacist, or  
4 p. any provider not otherwise mentioned in this paragraph  
5 that meets the definition of "essential community  
6 provider" under 45 C.F.R., Section 156.235;

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

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

17 13. "Local Oklahoma provider organization" means any state  
18 provider association, accountable care organization, Certified  
19 Community Behavioral Health Clinic, Federally Qualified Health  
20 Center, Native American tribe or tribal association, hospital or  
21 health system, academic medical institution, currently practicing  
22 licensed provider, or other local Oklahoma provider organization as  
23 approved by the Authority;

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1 14. "Medical necessity" has the same meaning as provided by  
2 rules promulgated by the Oklahoma Health Care Authority Board;

3 15. "Participating provider" means a provider who has a  
4 contract with or is employed by a contracted entity to provide  
5 services to Medicaid members as authorized by the Ensuring Access to  
6 Medicaid Act;

7 16. "Provider" means a health care or dental provider licensed  
8 or certified in this state or a provider that meets the Authority's  
9 provider enrollment criteria to contract with the Authority as a  
10 SoonerCare provider;

11 17. "Provider-led entity" means an organization or entity that  
12 meets the criteria of at least one of the following two  
13 subparagraphs:

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

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

21 (1) have experience serving Medicaid members and:

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

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

5 (c) are employed by:

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

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

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

18 (3) are nonclinical administrators of clinical  
19 practices serving Medicaid members;

20 18. "Statewide" means all counties of this state including the  
21 urban region; and

22 19. "Urban region" means:  
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- 1           a.    all counties of this state with a county population of  
2                   not less than five hundred thousand (500,000)  
3                   according to the latest Federal Decennial Census, and  
4           b.    all counties that are contiguous to the counties  
5                   described in subparagraph a of this paragraph,  
6 combined into one region.

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

8 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES  
9 April 4, 2024 - DO PASS

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