

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 28, 2024

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB1417

By: Thompson, R. of the Senate and McEntire of the House

Title: Medicaid; modifying various provisions relating to nursing facility incentive reimbursement.
Effective date. Emergency.

together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute (Request #3783) be adopted.

Respectfully submitted,

SENATE CONFEREES:




Thompson, R.




Rosino



Haste



Stanley



Pemberton

Hicks

HOUSE CONFEREES:

General Conference Committee on Appropriations

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 1417

By: Thompson (Roger) of the
Senate

6 and

7 McEntire of the House

8
9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to the state Medicaid program;
11 amending 56 O.S. 2021, Section 1011.5, which relates
12 to the nursing facility incentive reimbursement rate
13 plan; modifying payment qualification criteria;
14 directing certain allocation of funds; conforming
15 language; removing obsolete language; modifying
16 certain method of reporting; requiring the Oklahoma
17 Health Care Authority to include certain information
18 in annual budget request; specifying calculation
19 method of certain costs; amending 63 O.S. 2021,
20 Section 1-1925.2, which relates to reimbursements
21 from the Nursing Facility Quality of Care Fund;
22 requiring transition to price-based payment
23 methodology under certain conditions; directing
24 certain allocation of funds; requiring the Oklahoma
Health Care Authority to implement certain
scholarship program subject to available funding;
amending 63 O.S. 2021, Section 5023, which relates to
adjustment of per diem rate; directing certain rate
increase under specified conditions; updating
statutory language; providing for codification; and
providing an effective date.

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

1 SECTION 1. AMENDATORY 56 O.S. 2021, Section 1011.5, is
2 amended to read as follows:

3 Section 1011.5. A. 1. The Oklahoma Health Care Authority
4 shall develop an incentive reimbursement rate plan for nursing
5 facilities focused on improving resident outcomes and resident
6 quality of life.

7 2. Under the current rate methodology, the Authority shall
8 reserve Five Dollars (\$5.00) per patient day designated for the
9 quality assurance component that nursing facilities can earn for
10 ~~improvement or performance achievement of resident-centered outcomes~~
11 ~~metrics~~ the long-stay quality measures ratings specified in
12 paragraph 4 of this subsection. To fund the quality assurance
13 component, Two Dollars (\$2.00) shall be deducted from each nursing
14 facility's per diem rate, and matched with Three Dollars (\$3.00) per
15 day funded by the Authority. Payments to nursing facilities that
16 ~~achieve specific metrics~~ qualify under paragraph 4 of this
17 subsection shall be treated as an "add back" to their net
18 reimbursement per diem. Dollar values assigned to each ~~metric~~
19 rating shall be determined so that an average of the five-dollar-
20 quality incentive is made to qualifying nursing facilities.

21 3. Pay-for-performance payments may be earned quarterly and
22 based on ~~facility-specific performance achievement of four equally-~~
23 ~~weighted, Long-Stay Quality Measures as defined by~~ the facility's
24 long-stay quality measures rating in the Nursing Home Five-Star

1 Quality Rating System of the Centers for Medicare and Medicaid
2 Services (CMS).

3 4. Contracted Medicaid long-term care providers may earn
4 payment by achieving ~~either five percent (5%) relative improvement~~
5 ~~each quarter from baseline or by achieving the National Average~~
6 ~~Benchmark or better for each individual quality metric~~ at least a
7 two-star long-stay quality measures rating. Program funds shall be
8 allocated as follows:

9 a. facilities with a two-star rating shall receive forty
10 percent (40%) of the per-day amount reserved for the
11 quality assurance component per Medicaid patient day,

12 b. facilities with a three-star rating shall receive
13 sixty percent (60%) of the per-day amount reserved for
14 the quality assurance component per Medicaid patient
15 day,

16 c. facilities with a four-star rating shall receive
17 eighty percent (80%) of the per-day amount reserved
18 for the quality assurance component per Medicaid
19 patient day, and

20 d. facilities with a five-star rating shall receive one
21 hundred percent (100%) of the per-day amount reserved
22 for the quality assurance component per Medicaid
23 patient day.

24

1 5. Pursuant to federal Medicaid approval, any funds that remain
2 ~~as a result of providers failing to meet the quality assurance~~
3 ~~metrics~~ after all the allocations under paragraph 4 of this
4 subsection have been made shall be pooled and redistributed to those
5 who ~~achieve the quality assurance metrics each quarter~~ qualify for
6 payments under paragraph 4 of this subsection. If federal approval
7 is not received, any remaining funds shall be deposited in the
8 Nursing Facility Quality of Care Fund authorized in Section 2002 of
9 this title.

10 6. The Authority shall establish an advisory group with
11 consumer, provider and state agency representation to ~~recommend~~
12 ~~quality measures to be included in the pay for performance program~~
13 ~~and to~~ provide feedback on program performance and recommendations
14 for improvement. ~~The quality measures shall be reviewed annually~~
15 ~~and shall be subject to change every three (3) years through the~~
16 ~~agency's promulgation of rules. The Authority shall insure~~
17 ~~adherence to the following criteria in determining the quality~~
18 ~~measures:~~

- 19 a. ~~provides direct benefit to resident care outcomes,~~
- 20 b. ~~applies to long stay residents, and~~
- 21 c. ~~addresses a need for quality improvement using the~~
22 Centers for Medicare and Medicaid Services (CMS)
23 ranking for Oklahoma.

24

1 ~~7. The Authority shall begin the pay for performance program~~
2 ~~focusing on improving the following CMS nursing home quality~~
3 ~~measures:~~

4 ~~a. percentage of long stay, high risk residents with~~
5 ~~pressure ulcers,~~

6 ~~b. percentage of long stay residents who lose too much~~
7 ~~weight,~~

8 ~~c. percentage of long stay residents with a urinary tract~~
9 ~~infection, and~~

10 ~~d. percentage of long stay residents who got an~~
11 ~~antipsychotic medication.~~

12 B. The Oklahoma Health Care Authority shall negotiate with the
13 Centers for Medicare and Medicaid Services to include the authority
14 to base provider reimbursement rates for nursing facilities on the
15 criteria specified in subsection A of this section.

16 C. The Oklahoma Health Care Authority shall audit the program
17 to ensure transparency and integrity.

18 D. The Oklahoma Health Care Authority shall ~~provide~~
19 electronically submit an annual report of the incentive
20 reimbursement rate plan to the Governor, the Speaker of the House of
21 Representatives, and the President Pro Tempore of the Senate by
22 December 31 of each year. The report shall include, but not be
23 limited to, an analysis of the previous fiscal year including
24 incentive payments, ratings, and notable trends.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1011.16 of Title 56, unless
3 there is created a duplication in numbering, reads as follows:

4 A. The Oklahoma Health Care Authority in its annual budget
5 request submitted pursuant to Section 34.36 of Title 62 of the
6 Oklahoma Statutes shall include a supplemental item reflecting the
7 new state and federal funding necessary to meet the additional costs
8 associated with reimbursing nursing facilities and intermediate care
9 facilities for individuals with intellectual disabilities at the
10 most recent audited cost.

11 B. Audited cost shall be calculated by using the latest cost
12 report submitted to the Oklahoma Health Care Authority.

13 SECTION 3. AMENDATORY 63 O.S. 2021, Section 1-1925.2, is
14 amended to read as follows:

15 Section 1-1925.2. A. The Oklahoma Health Care Authority shall
16 fully recalculate and reimburse nursing facilities and ~~Intermediate~~
17 ~~Care Facilities for Individuals with Intellectual Disabilities~~
18 intermediate care facilities for individuals with intellectual
19 disabilities (ICFs/IID) from the Nursing Facility Quality of Care
20 Fund beginning October 1, 2000, the average actual, audited costs
21 reflected in previously submitted cost reports for the cost-
22 reporting period that began July 1, 1998, and ended June 30, 1999,
23 inflated by the federally published inflationary factors for the two
24

1 (2) years appropriate to reflect present-day costs at the midpoint
2 of the July 1, 2000, through June 30, 2001, rate year.

3 1. The recalculations provided for in this subsection shall be
4 consistent for both nursing facilities and ~~Intermediate Care~~
5 ~~Facilities for Individuals with Intellectual Disabilities~~
6 intermediate care facilities for individuals with intellectual
7 disabilities (ICFs/IID).

8 2. The recalculated reimbursement rate shall be implemented
9 September 1, 2000.

10 B. 1. From September 1, 2000, through August 31, 2001, all
11 nursing facilities subject to the Nursing Home Care Act, in addition
12 to other state and federal requirements related to the staffing of
13 nursing facilities, shall maintain the following minimum direct-
14 care-staff-to-resident ratios:

- 15 a. from 7:00 a.m. to 3:00 p.m., one direct-care staff to
16 every eight residents, or major fraction thereof,
- 17 b. from 3:00 p.m. to 11:00 p.m., one direct-care staff to
18 every twelve residents, or major fraction thereof, and
- 19 c. from 11:00 p.m. to 7:00 a.m., one direct-care staff to
20 every seventeen residents, or major fraction thereof.

21 2. From September 1, 2001, through August 31, 2003, nursing
22 facilities subject to the Nursing Home Care Act and ~~Intermediate~~
23 ~~Care Facilities for Individuals with Intellectual Disabilities~~
24 intermediate care facilities for individuals with intellectual

1 disabilities (ICFs/IID) with seventeen or more beds shall maintain,
2 in addition to other state and federal requirements related to the
3 staffing of nursing facilities, the following minimum direct-care-
4 staff-to-resident ratios:

- 5 a. from 7:00 a.m. to 3:00 p.m., one direct-care staff to
6 every seven residents, or major fraction thereof,
- 7 b. from 3:00 p.m. to 11:00 p.m., one direct-care staff to
8 every ten residents, or major fraction thereof, and
- 9 c. from 11:00 p.m. to 7:00 a.m., one direct-care staff to
10 every seventeen residents, or major fraction thereof.

11 3. On and after October 1, 2019, nursing facilities subject to
12 the Nursing Home Care Act and ~~Intermediate Care Facilities for~~
13 ~~Individuals with Intellectual Disabilities~~ intermediate care
14 facilities for individuals with intellectual disabilities (ICFs/IID)
15 with seventeen or more beds shall maintain, in addition to other
16 state and federal requirements related to the staffing of nursing
17 facilities, the following minimum direct-care-staff-to-resident
18 ratios:

- 19 a. from 7:00 a.m. to 3:00 p.m., one direct-care staff to
20 every six residents, or major fraction thereof,
- 21 b. from 3:00 p.m. to 11:00 p.m., one direct-care staff to
22 every eight residents, or major fraction thereof, and
- 23 c. from 11:00 p.m. to 7:00 a.m., one direct-care staff to
24 every fifteen residents, or major fraction thereof.

1 4. Effective immediately, facilities shall have the option of
2 varying the starting times for the eight-hour shifts by one (1) hour
3 before or one (1) hour after the times designated in this section
4 without overlapping shifts.

5 5. a. On and after January 1, 2020, a facility may implement
6 twenty-four-hour-based staff scheduling; provided,
7 however, such facility shall continue to maintain a
8 direct-care service rate of at least two and ~~nine~~
9 ~~tenths~~ nine-tenths (2.9) hours of direct-care service
10 per resident per day, the same to be calculated based
11 on average direct care staff maintained over a twenty-
12 four-hour period.

13 b. At no time shall direct-care staffing ratios in a
14 facility with twenty-four-hour-based staff-scheduling
15 privileges fall below one direct-care staff to every
16 fifteen residents or major fraction thereof, and at
17 least two direct-care staff shall be on duty and awake
18 at all times.

19 c. As used in this paragraph, ~~"twenty-four-hour-based-~~
20 ~~scheduling"~~ "twenty-four-hour-based staff scheduling"
21 means maintaining:

22 (1) a direct-care-staff-to-resident ratio based on
23 overall hours of direct-care service per resident
24 per day rate of not less than ~~two and ninety one-~~

1 ~~hundredths (2.90)~~ two and nine-tenths (2.9) hours
2 per day,

3 (2) a direct-care-staff-to-resident ratio of at least
4 one direct-care staff person on duty to every
5 fifteen residents or major fraction thereof at
6 all times, and

7 (3) at least two direct-care staff persons on duty
8 and awake at all times.

9 6. a. On and after January 1, 2004, the State Department of
10 Health shall require a facility to maintain the shift-
11 based, staff-to-resident ratios provided in paragraph
12 3 of this subsection if the facility has been
13 determined by the Department to be deficient with
14 regard to:

15 (1) the provisions of paragraph 3 of this subsection,

16 (2) fraudulent reporting of staffing on the Quality
17 of Care Report, or

18 (3) a complaint or survey investigation that has
19 determined substandard quality of care as a
20 result of insufficient staffing.

21 b. The Department shall require a facility described in
22 subparagraph a of this paragraph to achieve and
23 maintain the shift-based, staff-to-resident ratios
24 provided in paragraph 3 of this subsection for a

1 minimum of three (3) months before being considered
2 eligible to implement twenty-four-hour-based staff
3 scheduling as defined in subparagraph c of paragraph 5
4 of this subsection.

5 c. Upon a subsequent determination by the Department that
6 the facility has achieved and maintained for at least
7 three (3) months the shift-based, staff-to-resident
8 ratios described in paragraph 3 of this subsection,
9 and has corrected any deficiency described in
10 subparagraph a of this paragraph, the Department shall
11 notify the facility of its eligibility to implement
12 twenty-four-hour-based staff-scheduling privileges.

13 7. a. For facilities that utilize twenty-four-hour-based
14 staff-scheduling privileges, the Department shall
15 monitor and evaluate facility compliance with the
16 twenty-four-hour-based staff-scheduling staffing
17 provisions of paragraph 5 of this subsection through
18 reviews of monthly staffing reports, results of
19 complaint investigations and inspections.

20 b. If the Department identifies any quality-of-care
21 problems related to insufficient staffing in such
22 facility, the Department shall issue a directed plan
23 of correction to the facility found to be out of
24 compliance with the provisions of this subsection.

1 c. In a directed plan of correction, the Department shall
2 require a facility described in subparagraph b of this
3 paragraph to maintain shift-based, staff-to-resident
4 ratios for the following periods of time:

5 (1) the first determination shall require that shift-
6 based, staff-to-resident ratios be maintained
7 until full compliance is achieved,

8 (2) the second determination within a two-year period
9 shall require that shift-based, staff-to-resident
10 ratios be maintained for a minimum period of
11 twelve (12) months, and

12 (3) the third determination within a two-year period
13 shall require that shift-based, staff-to-resident
14 ratios be maintained. The facility may apply for
15 permission to use twenty-four-hour staffing
16 methodology after two (2) years.

17 C. Effective September 1, 2002, facilities shall post the names
18 and titles of direct-care staff on duty each day in a conspicuous
19 place, including the name and title of the supervising nurse.

20 D. The State Commissioner of Health shall promulgate rules
21 prescribing staffing requirements for ~~Intermediate Care Facilities~~
22 ~~for Individuals with Intellectual Disabilities~~ intermediate care
23 facilities for individuals with intellectual disabilities serving
24 six or fewer clients (ICFs/IID-6) and for ~~Intermediate Care~~

1 ~~Facilities for Individuals with Intellectual Disabilities~~
2 intermediate care facilities for individuals with intellectual
3 disabilities serving sixteen or fewer clients (ICFs/IID-16).

4 E. Facilities shall have the right to appeal and to the
5 informal dispute resolution process with regard to penalties and
6 sanctions imposed due to staffing noncompliance.

7 F. 1. When the state Medicaid program reimbursement rate
8 reflects the sum of Ninety-four Dollars and eleven cents (\$94.11),
9 plus the increases in actual audited costs over and above the actual
10 audited costs reflected in the cost reports submitted for the most
11 current cost-reporting period and the costs estimated by the
12 Oklahoma Health Care Authority to increase the direct-care, flexible
13 staff-scheduling staffing level from two and eighty-six one-
14 hundredths (2.86) hours per day per occupied bed to three and two-
15 tenths (3.2) hours per day per occupied bed, all nursing facilities
16 subject to the provisions of the Nursing Home Care Act and
17 ~~Intermediate Care Facilities for Individuals with Intellectual~~
18 ~~Disabilities~~ intermediate care facilities for individuals with
19 intellectual disabilities (ICFs/IID) with seventeen or more beds, in
20 addition to other state and federal requirements related to the
21 staffing of nursing facilities, shall maintain direct-care, flexible
22 staff-scheduling staffing levels based on an overall three and two-
23 tenths (3.2) hours per day per occupied bed.

24

1 2. When the state Medicaid program reimbursement rate reflects
2 the sum of Ninety-four Dollars and eleven cents (\$94.11), plus the
3 increases in actual audited costs over and above the actual audited
4 costs reflected in the cost reports submitted for the most current
5 cost-reporting period and the costs estimated by the Oklahoma Health
6 Care Authority to increase the direct-care flexible staff-scheduling
7 staffing level from three and two-tenths (3.2) hours per day per
8 occupied bed to three and eight-tenths (3.8) hours per day per
9 occupied bed, all nursing facilities subject to the provisions of
10 the Nursing Home Care Act and ~~Intermediate Care Facilities for~~
11 ~~Individuals with Intellectual Disabilities~~ intermediate care
12 facilities for individuals with intellectual disabilities (ICFs/IID)
13 with seventeen or more beds, in addition to other state and federal
14 requirements related to the staffing of nursing facilities, shall
15 maintain direct-care, flexible staff-scheduling staffing levels
16 based on an overall three and eight-tenths (3.8) hours per day per
17 occupied bed.

18 3. When the state Medicaid program reimbursement rate reflects
19 the sum of Ninety-four Dollars and eleven cents (\$94.11), plus the
20 increases in actual audited costs over and above the actual audited
21 costs reflected in the cost reports submitted for the most current
22 cost-reporting period and the costs estimated by the Oklahoma Health
23 Care Authority to increase the direct-care, flexible staff-
24 scheduling staffing level from three and eight-tenths (3.8) hours

1 per day per occupied bed to four and one-tenth (4.1) hours per day
2 per occupied bed, all nursing facilities subject to the provisions
3 of the Nursing Home Care Act and ~~Intermediate Care Facilities for~~
4 ~~Individuals with Intellectual Disabilities~~ intermediate care
5 facilities for individuals with intellectual disabilities (ICFs/IID)
6 with seventeen or more beds, in addition to other state and federal
7 requirements related to the staffing of nursing facilities, shall
8 maintain direct-care, flexible staff-scheduling staffing levels
9 based on an overall four and one-tenth (4.1) hours per day per
10 occupied bed.

11 4. The Commissioner shall promulgate rules for shift-based,
12 staff-to-resident ratios for noncompliant facilities denoting the
13 incremental increases reflected in direct-care, flexible staff-
14 scheduling staffing levels.

15 5. In the event that the state Medicaid program reimbursement
16 rate for facilities subject to the Nursing Home Care Act, and
17 ~~Intermediate Care Facilities for Individuals with Intellectual~~
18 ~~Disabilities~~ intermediate care facilities for individuals with
19 intellectual disabilities (ICFs/IID) having seventeen or more beds
20 is reduced below actual audited costs, the requirements for staffing
21 ratio levels shall be adjusted to the appropriate levels provided in
22 paragraphs 1 through 4 of this subsection.

23 G. For purposes of this ~~subsection~~ section:
24

1 1. "Direct-care staff" means any nursing or therapy staff who
2 provides direct, hands-on care to residents in a nursing facility;

3 2. Prior to September 1, 2003, activity and social services
4 staff who are not providing direct, hands-on care to residents may
5 be included in the direct-care-staff-to-resident ratio in any shift.
6 On and after September 1, 2003, such persons shall not be included
7 in the direct-care-staff-to-resident ratio, regardless of their
8 licensure or certification status; and

9 3. The administrator shall not be counted in the direct-care-
10 staff-to-resident ratio regardless of the administrator's licensure
11 or certification status.

12 H. 1. The Oklahoma Health Care Authority shall require all
13 nursing facilities subject to the provisions of the Nursing Home
14 Care Act and ~~Intermediate Care Facilities for Individuals with~~
15 ~~Intellectual Disabilities~~ intermediate care facilities for
16 individuals with intellectual disabilities (ICFs/IID) with seventeen
17 or more beds to submit a monthly report on staffing ratios on a form
18 that the Authority shall develop.

19 2. The report shall document the extent to which such
20 facilities are meeting or are failing to meet the minimum direct-
21 care-staff-to-resident ratios specified by this section. Such
22 report shall be available to the public upon request.

23

24

1 3. The Authority may assess administrative penalties for the
2 failure of any facility to submit the report as required by the
3 Authority. Provided, however:

4 a. administrative penalties shall not accrue until the
5 Authority notifies the facility in writing that the
6 report was not timely submitted as required, and

7 b. a minimum of a one-day penalty shall be assessed in
8 all instances.

9 4. Administrative penalties shall not be assessed for
10 computational errors made in preparing the report.

11 5. Monies collected from administrative penalties shall be
12 deposited in the Nursing Facility Quality of Care Fund established
13 in Section 2002 of Title 56 of the Oklahoma Statutes and utilized
14 for the purposes specified in ~~the Oklahoma Healthcare Initiative Act~~
15 such section.

16 I. 1. All entities regulated by this state that provide long-
17 term care services shall utilize a single assessment tool to
18 determine client services needs. The tool shall be developed by the
19 Oklahoma Health Care Authority in consultation with the State
20 Department of Health.

21 2. a. The Oklahoma Nursing Facility Funding Advisory
22 Committee is hereby created and shall consist of the
23 following:
24

- 1 (1) four members selected by the Oklahoma Association
2 of Health Care Providers,
- 3 (2) three members selected by the Oklahoma
4 Association of Homes and Services for the Aging,
5 and
- 6 (3) two members selected by the State Council on
7 Aging.

8 The Chair shall be elected by the committee. No state
9 employees may be appointed to serve.

10 b. The purpose of the advisory committee will be to
11 develop a new methodology for calculating state
12 Medicaid program reimbursements to nursing facilities
13 by implementing facility-specific rates based on
14 expenditures relating to direct care staffing. No
15 nursing home will receive less than the current rate
16 at the time of implementation of facility-specific
17 rates pursuant to this subparagraph.

18 c. The advisory committee shall be staffed and advised by
19 the Oklahoma Health Care Authority.

20 d. The new methodology will be submitted for approval to
21 the Board of the Oklahoma Health Care Authority by
22 January 15, 2005, and shall be finalized by July 1,
23 2005. The new methodology will apply only to new
24 funds that become available for Medicaid nursing

1 facility reimbursement after the methodology of this
2 paragraph has been finalized. Existing funds paid to
3 nursing homes will not be subject to the methodology
4 of this paragraph. The methodology as outlined in
5 this paragraph will only be applied to any new funding
6 for nursing facilities appropriated above and beyond
7 the funding amounts effective on January 15, 2005.

8 e. The new methodology shall divide the payment into two
9 components:

10 (1) direct care which includes allowable costs for
11 registered nurses, licensed practical nurses,
12 certified medication aides and certified nurse
13 aides. The direct care component of the rate
14 shall be a facility-specific rate, directly
15 related to each facility's actual expenditures on
16 direct care, and

17 (2) other costs.

18 f. The Oklahoma Health Care Authority, in calculating the
19 base year prospective direct care rate component,
20 shall use the following criteria:

21 (1) to construct an array of facility per diem
22 allowable expenditures on direct care, the
23 Authority shall use the most recent data
24

1 available. The limit on this array shall be no
2 less than the ninetieth percentile,

3 (2) each facility's direct care base-year component
4 of the rate shall be the lesser of the facility's
5 allowable expenditures on direct care or the
6 limit,

7 (3) subject to availability of funds, the Authority
8 shall transition the payment rate methodology of
9 nursing facilities to a price-based methodology
10 when data for such a methodology becomes
11 available and has been analyzed by the Authority.
12 Under the price-based methodology, fifty percent
13 (50%) of funds shall be allocated to a case mix
14 component and the remaining fifty percent (50%)
15 of funds shall be allocated to the base rate
16 component,

17 (4) other rate components shall be determined by the
18 Oklahoma Nursing Facility Funding Advisory
19 Committee or the Authority in accordance with
20 federal regulations and requirements,

21 ~~(4)~~ (5) prior to July 1, 2020, the Authority shall
22 seek federal approval to calculate the upper
23 payment limit under the authority of ~~CMS~~ the
24 Centers for Medicare and Medicaid Services (CMS)

1 utilizing the Medicare equivalent payment rate,
2 and

3 ~~(5)~~ (6) if Medicaid payment rates to providers are
4 adjusted, nursing home rates and ~~Intermediate~~
5 ~~Care Facilities for Individuals with Intellectual~~
6 ~~Disabilities~~ intermediate care facilities for
7 individuals with intellectual disabilities
8 (ICFs/IID) rates shall not be adjusted less
9 favorably than the average percentage-rate
10 reduction or increase applicable to the majority
11 of other provider groups.

12 g. (1) Effective October 1, 2019, if sufficient funding
13 is appropriated for a rate increase, a new
14 average rate for nursing facilities shall be
15 established. The rate shall be equal to the
16 statewide average cost as derived from audited
17 cost reports for SFY 2018, ending June 30, 2018,
18 after adjustment for inflation. After such new
19 average rate has been established, the facility
20 specific reimbursement rate shall be as follows:

21 (a) amounts up to the existing base rate amount
22 shall continue to be distributed as a part
23 of the base rate in accordance with the
24 existing State Plan, and

1 (b) to the extent the new rate exceeds the rate
2 effective before ~~the effective date of this~~
3 ~~act~~ October 1, 2019, fifty percent (50%) of
4 the resulting increase on October 1, 2019,
5 shall be allocated toward an increase of the
6 existing base reimbursement rate and
7 distributed accordingly. The remaining
8 fifty percent (50%) of the increase shall be
9 allocated in accordance with the currently
10 approved 70/30 reimbursement rate
11 methodology as outlined in the existing
12 State Plan.

13 (2) Any subsequent rate increases, as determined
14 based on the provisions set forth in this
15 subparagraph, shall be allocated in accordance
16 with the currently approved 70/30 reimbursement
17 rate methodology. The rate shall not exceed the
18 upper payment limit established by the Medicare
19 rate equivalent established by the federal CMS.

20 h. Effective October 1, 2019, in coordination with the
21 rate adjustments identified in the preceding section,
22 a portion of the funds shall be utilized as follows:

23 (1) effective October 1, 2019, the Oklahoma Health
24 Care Authority shall increase the personal needs

1 allowance for residents of nursing homes and
2 ~~Intermediate Care Facilities for Individuals with~~
3 ~~Intellectual Disabilities~~ intermediate care
4 facilities for individuals with intellectual
5 disabilities (ICFs/IID) from Fifty Dollars
6 (\$50.00) per month to Seventy-five Dollars
7 (\$75.00) per month per resident. The increase
8 shall be funded by Medicaid nursing home
9 providers, by way of a reduction of eighty-two
10 cents (\$0.82) per day deducted from the base
11 rate. Any additional cost shall be funded by the
12 Nursing Facility Quality of Care Fund, and

13 (2) effective January 1, 2020, all clinical employees
14 working in a licensed nursing facility shall be
15 required to receive at least four (4) hours
16 annually of Alzheimer's or dementia training, to
17 be provided and paid for by the facilities.

18 3. The Department of Human Services shall expand its statewide
19 toll-free, ~~Senior Info Line~~ Senior Info-line for senior citizen
20 services to include assistance with or information on long-term care
21 services in this state.

22 4. The Oklahoma Health Care Authority shall develop a nursing
23 facility cost-reporting system that reflects the most current costs
24 experienced by nursing and specialized facilities. The Oklahoma

1 Health Care Authority shall utilize the most current cost report
2 data to estimate costs in determining daily per diem rates.

3 5. The Oklahoma Health Care Authority shall provide access to
4 the detailed Medicaid payment audit adjustments and implement an
5 appeal process for disputed payment audit adjustments to the
6 provider. Additionally, the Oklahoma Health Care Authority shall
7 make sufficient revisions to the nursing facility cost reporting
8 forms and electronic data input system so as to clarify what
9 expenses are allowable and appropriate for inclusion in cost
10 calculations.

11 J. 1. When the state Medicaid program reimbursement rate
12 reflects the sum of Ninety-four Dollars and eleven cents (\$94.11),
13 plus the increases in actual audited costs, over and above the
14 actual audited costs reflected in the cost reports submitted for the
15 most current cost-reporting period, and the direct-care, flexible
16 staff-scheduling staffing level has been prospectively funded at
17 four and one-tenth (4.1) hours per day per occupied bed, the
18 Authority may apportion funds for the implementation of the
19 provisions of this section.

20 2. The Authority shall make application to the United States
21 Centers for Medicare and Medicaid Service for a waiver of the
22 uniform requirement on health-care-related taxes as permitted by
23 ~~Section 433.72~~ of 42 C.F.R., Section 433.72.

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1 3. Upon approval of the waiver, the Authority shall develop a
2 program to implement the provisions of the waiver as it relates to
3 all nursing facilities.

4 K. Subject to the availability of funds, the Authority shall
5 design and implement a scholarship program for nurse aides who work
6 in Medicaid-certified nursing facilities or intermediate care
7 facilities for individuals with intellectual disabilities (ICFs/IID)
8 and who are attending a program of practical nursing approved by the
9 Oklahoma Board of Nursing.

10 SECTION 4. AMENDATORY 63 O.S. 2021, Section 5023, is
11 amended to read as follows:

12 Section 5023. A. Effective January 1, 2000, and every January
13 thereafter until subsection B of this section becomes effective, the
14 Oklahoma Health Care Authority will adjust the nursing facility per
15 diem rate in an amount equal to the total amount of the savings to
16 the Medicaid program as a result of the automatic cost-of-living
17 adjustment on Social Security benefits received by nursing home
18 recipients, as published in the Federal Register.

19 B. Effective January 1, 2026, and every January 1 thereafter,
20 subject to receipt of any necessary federal approval, the Authority
21 shall increase each nursing facility's per diem rate in an amount
22 equal to the automatic cost-of-living adjustments on Social Security
23 benefits received by residents of the facility, as published in the
24

1 Federal Register. The Authority shall seek any federal approval
2 necessary to implement this subsection.

3 SECTION 5. This act shall become effective July 1, 2025.

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