An Act

ENROLLED HOUSE
BILL NO. 1363

By: Peters, McDaniel (Jeannie), Newell, Cockroft and Christian of the House

and

Jolley and Allen of the Senate

An Act relating to poor persons; creating the Oklahoma Choices for Long-Term Care Act; stating purpose; making legislative findings; stating eligibility for the ADvantage Waiver Program; directing Oklahoma Health Care Authority to create a system of eligibility for home- and community-based services; directing Department of Human Services to make certain changes in regulations; directing Authority to submit applications for waivers by certain date; providing that copies of waivers be provided to certain individuals; requiring authority to implement waivers within certain time period; requiring Authority to include certain information in annual report; requiring development of certain request for proposal for administrative agent services of certain program by certain date; providing specifications of request for proposal; providing for nondiscrimination; providing for selection criteria; permitting state employees to submit bid; providing procedure for bids; authorizing Authority to promulgate certain rules; providing for codification; and providing an effective date.

SUBJECT: Oklahoma Choices for Long-Term Care Act

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1017.1 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. Sections 1 through 5 of this act shall be known and may be cited as the "Oklahoma Choices for Long-Term Care Act".

B. The purpose of the Oklahoma Choices for Long-Term Care Act is to make long-term services and supports for citizens easily accessible, cost-effective and of high quality and to provide a comprehensive and systematic approach to addressing these needs. The Oklahoma Choices for Long-Term Care Act shall provide older Oklahomans and adults with physical disabilities the opportunity to choose where they live and receive their services, and provide efficient administration of the ADvantage Waiver Program.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1017.2 of Title 56, unless there is created a duplication in numbering, reads as follows:

The Legislature finds that:

1. Oklahoma has a successful home- and community-based services program known as the ADvantage Waiver Program for the frail, elderly and adults with physical disabilities age twenty-one (21) and over who do not have mental retardation nor a cognitive impairment. The ADvantage Waiver Program provides the following services: case management, transitional case management, personal care, advanced supportive/restorative, skilled nursing - home health setting, RN assessment evaluation, occupational therapy, physical therapy, respiratory therapy, speech/language therapy, adult day health, personal care in adult day health, therapy in adult day health, home-delivered meals, NF extended respite, in-home respite, in-home extended respite, environmental modifications, hospice, consumer-directed personal care assistant services and supports, assisted living, and specialized medical equipment and supplies;

2. Many Oklahomans who could safely stay at home with cost-effective home- and community-based services go into nursing facilities the day assistance is needed because their eligibility for nursing facility supports is "presumed" by the nursing facility, while eligibility for home and community supports can take weeks or months. If their circumstances are such that they need immediate or urgent care, they lose their choice to live and receive their

services at home. Once they are in a nursing facility, they may lose their home or the supports they need to stay at home; and

3. The cost of serving Oklahomans who are in nursing facilities when they could be living and receiving services at home is significantly higher than the cost of serving them with home- and community-based services.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1017.3 of Title 56, unless there is created a duplication in numbering, reads as follows:

To be eligible for the ADvantage Waiver Program, a person shall:

1. Qualify financially for Medicaid;

2. Be sixty-five (65) years of age or older or be a physically disabled adult as determined by the Social Security Administration, age twenty-one (21) years or older without mental retardation or cognitive impairment;

3. Be determined to meet the nursing facility institutional level of care by the Aging Services Division of the Department of Human Services;

4. Reside in his or her own home or a family member's home; and

5. Have needs that can be safely met with waiver services and family or community supports.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1017.4 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Health Care Authority is directed to create a system of enrollment, Medicaid eligibility, and certification for home- and community-based services provided by the ADvantage Waiver Program that provides for presumptive Medicaid eligibility and certification that is the same as that which exists for nursing facilities as provided for in administrative rules promulgated by the Oklahoma Health Care Authority Board. The system shall facilitate the provision of home- and community-based services to persons at risk of placement in a nursing facility but who elect to be served in a home- and community-based setting in lieu of nursing facility services.

B. The Department of Human Services is directed to make such changes in its regulations, policies and procedures as are necessary to implement the enrollment, Medicaid eligibility, and certification requirements established pursuant to subsection A of this section.

C. The Oklahoma Health Care Authority shall develop and submit for approval no later than November 1, 2011, applications for waivers or amendments to waivers of applicable federal laws and regulations as necessary to implement the provisions of the Oklahoma Choices for Long-Term Care Act. Copies of all waivers submitted to the United States Centers for Medicare and Medicaid Services shall be provided to the Governor, the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Oklahoma State Senate within ten (10) days of their submissions. Waivers and amendments to waivers approved by the United States Centers for Medicare and Medicaid Services as provided in this section shall be provided to the Governor, the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Oklahoma State Senate within ten (10) days of their approval. The Oklahoma Health Care Authority shall implement any waivers and amendments to waivers approved by the United States Centers for Medicare and Medicaid Services no later than January 1, 2012, or within sixty (60) days of their approval. The Oklahoma Health Care Authority shall report the savings as the result of the Oklahoma Choices for Long-Term Care Act each year in its annual report.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1017.5 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. On or before January 1, 2012, the Oklahoma Health Care Authority shall initiate a Request for Proposal (RFP) which shall outline specific expectations and requirements of suppliers to competitively bid on administrative agent services for the ADvantage Waiver Program. The RFP shall comply with all requirements of The Oklahoma Central Purchasing Act related to state procurement.

The RFP shall:

1. Require outsourcing of administrative agent services for a period of one (1) year;

2. Outline minimum requirements;

3. Direct the Oklahoma Central Purchasing Office to award a contract for administrative agent services;

4. Have a submission deadline of April 1, 2012;

5. Provide that the administrative agent contract award be announced on May 15, 2012; and

6. Provide that the administrative agent contract awarded begin July 1, 2012.

B. The State of Oklahoma shall not discriminate against suppliers from states or nations outside Oklahoma and shall reciprocate the bidding preference given by other states or nations to suppliers domiciled in their jurisdictions for acquisitions pursuant to The Oklahoma Central Purchasing Act. The state shall give preference to a resident bidder over other state or foreign bidders if goods or services provided in this state are equal in price, fitness, availability or quality.

C. Suppliers shall be required to have comprehensive experience in the administration of a Medicaid home- and community-based service delivery system for elders in frail health and adults with disabilities. The administrative agent contract shall be awarded to one supplier based on qualification, merit and cost competiveness and evaluation criteria that include:

1. Qualifications and experience in providing similar services;

2. Knowledge and technical competence;

3. Management, key personnel and other professional certifications;

4. Timeliness and responsiveness of services;

5. Detailed budget/costs;

6. Proposal for management and administration with detailed description of:

a. administrative structures that shall be in place prior to contract implementation to support the scope of services,

b. processes and procedures for daily operations,

c. expected outcomes along with the performance measures used to measure the effectiveness of each function,

d. description of data collection methods and reporting mechanisms,

e. methods used to collaborate and communicate with members, service providers, local and state health and human service agencies, regulatory agencies, and other stakeholders, and

f. detailed description and supporting documentation of how each waiver assurance will be met.

D. State employees currently performing such function shall be allowed to compete by submitting a bid to perform the administrative agency functions required in the day-to-day operations of the ADvantage Waiver Program; provided, however, that any and all such bids shall be submitted to and certified by the Oklahoma Health Care Authority, who shall for purposes of this section constitute the "agency" as such term is defined in the Oklahoma Privatization of State Functions Act.

E. The Oklahoma Health Care Authority Board shall promulgate rules and establish procedures necessary to implement the request for proposals and for the administration of the ADvantage Waiver Program pursuant to this section.

SECTION 6. This act shall become effective September 1, 2011.

Passed the House of Representatives the 16th day of May, 2011.

Presiding Officer of the House of Representatives

Passed the Senate the 17th day of May, 2011.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 18th

day of May, **20** 11,

at 3:53 **o'clock** P.M.

By: Jennifer R Pryor

Approved by the Governor of the State of Oklahoma the 24th **day of** May, **20** 11, **at** 2:44 **o'clock** PM.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

24th **day of** May, **20** 11,

at 4:05 **o'clock** P **M.**

By: Michelle R Day