An Act

ENROLLED SENATE
BILL NO. 563

By: Haste of the Senate

and

McEntire of the House

An Act relating to the state Medicaid program; amending 56 O.S. 2021, Section 4002.12, as amended by Section 2, Chapter 334, O.S.L. 2022 (56 O.S. Supp. 2022, Section 4002.12), which relates to minimum rates of reimbursement; requiring certain reimbursement of anesthesia; clarifying authority of anesthesia providers to enter into value-based payment arrangements; updating statutory reference; and declaring an emergency.

SUBJECT: Medicaid

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

SECTION 1. AMENDATORY 56 O.S. 2021, Section 4002.12, as amended by Section 2, Chapter 334, O.S.L. 2022 (56 O.S. Supp. 2022, Section 4002.12), is amended to read as follows:

Section 4002.12. A. Until July 1, 2026, the Oklahoma Health Care Authority shall establish minimum rates of reimbursement from contracted entities to providers who elect not to enter into value-based payment arrangements under subsection B of this section or other alternative payment agreements for health care items and services furnished by such providers to enrollees of the state Medicaid program. Except as provided by subsection I of this section, until July 1, 2026, such reimbursement rates shall be equal to or greater than:

1. For an item or service provided by a participating provider who is in the network of the contracted entity, one hundred percent (100%) of the reimbursement rate for the applicable service in the applicable fee schedule of the Authority; or

2. For an item or service provided by a non-participating provider or a provider who is not in the network of the contracted entity, ninety percent (90%) of the reimbursement rate for the applicable service in the applicable fee schedule of the Authority as of January 1, 2021.

B. A contracted entity shall offer value-based payment arrangements to all providers in its network capable of entering into value-based payment arrangements. Such arrangements shall be optional for the provider but shall be tied to reimbursement incentives when quality metrics are met. The quality measures used by a contracted entity to determine reimbursement amounts to providers in value-based payment arrangements shall align with the quality measures of the Authority for contracted entities.

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

D. A contracted entity shall offer all rural health clinics (RHCs) contracts that reimburse RHCs using the methodology in place for each specific RHC prior to January 1, 2023, including any and all annual rate updates. The contracted entity shall comply with all federal program rules and requirements, and the transformed Medicaid delivery system shall not interfere with the program as designed.

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

F. The Authority shall establish an incentive payment under the Supplemental Hospital Offset Payment Program that is determined by value-based outcomes for providers other than hospitals.

G. Psychologist reimbursement shall reflect outcomes. Reimbursement shall not be limited to therapy and shall include but not be limited to testing and assessment.

H. Coverage for Medicaid ground transportation services by licensed Oklahoma emergency medical services shall be reimbursed at no less than the published Medicaid rates as set by the Authority. All currently published Medicaid Healthcare Common Procedure Coding System (HCPCS) codes paid by the Authority shall continue to be paid by the contracted entity. The contracted entity shall comply with all reimbursement policies established by the Authority for the ambulance providers. Contracted entities shall accept the modifiers established by the Centers for Medicare and Medicaid Services currently in use by Medicare at the time of the transport of a member that is dually eligible for Medicare and Medicaid.

I. 1. The rate paid to participating pharmacy providers is independent of subsection A of this section and shall be the same as the fee-for-service rate employed by the Authority for the Medicaid program as stated in the payment methodology at OAC 317:30-5-78, unless the participating pharmacy provider elects to enter into other alternative payment agreements.

2. A pharmacy or pharmacist shall receive direct payment or reimbursement from the Authority or contracted entity when providing a health care service to the Medicaid member at a rate no less than that of other health care providers for providing the same service.

J. Notwithstanding any other provision of this section, anesthesia shall continue to be reimbursed equal to or greater than the Anesthesia Fee Schedule established by the Authority as of January 1, 2021. Anesthesia providers may also enter into value-based payment arrangements under this section or alternative payment arrangements for services furnished to Medicaid members.

K. The Authority shall specify in the requests for proposals a reasonable time frame in which a contracted entity shall have

entered into a certain percentage, as determined by the Authority, of value-based contracts with providers.

~~K.~~ L. Capitation rates established by the Oklahoma Health Care Authority and paid to contracted entities under capitated contracts shall be updated annually and in accordance with 42 C.F.R., Section 438.3. Capitation rates shall be approved as actuarially sound as determined by the Centers for Medicare and Medicaid Services in accordance with 42 C.F.R., Section 438.4 and the following:

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

2. Capitation rates shall be risk-adjusted and shall include a portion that is at risk for achievement of quality and outcomes measures.

~~L.~~ M. The Authority may establish a symmetric risk corridor for contracted entities.

~~M.~~ N. The Authority shall establish a process for annual recovery of funds from, or assessment of penalties on, contracted entities that do not meet the medical loss ratio standards stipulated in Section 4002.5 of this title.

~~N.~~ O. 1. The Authority shall, through the financial reporting required under subsection G of ~~Section 17 of this act~~ Section 4002.12b of this title, determine the percentage of health care expenses by each contracted entity on primary care services.

2. Not later than the end of the fourth year of the initial contracting period, each contracted entity shall be currently spending not less than eleven percent (11%) of its total health care expenses on primary care services.

3. The Authority shall monitor the primary care spending of each contracted entity and require each contracted entity to maintain the level of spending on primary care services stipulated in paragraph 2 of this subsection.

SECTION 2. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 23rd day of February, 2023.

Presiding Officer of the Senate

Passed the House of Representatives the 20th day of April, 2023.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 24th

day of April, 20 23, at 4:12 o'clock p. M.

By: Summer Murray

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 26th

day of May, 20 23, at 10:52 o'clock A. M.

By: Brian Bingman

MESSAGE FROM THE

OKLAHOMA STATE SENATE

5/25/2023

TO THE SECRETARY OF STATE

I am directed to inform you that the Senate has adopted the following and ordered same transmitted to you herewith:

Transmitting enrolled **SB 563**, and advising that under the provisions of Article V, Section 58 and Article VI, Section 11 of the Constitution of State of Oklahoma, the Senate and House of Representatives has reconsidered and passed said bill over the Governor's veto by a three-fourths vote of each House.

By order of the Senate of the State of Oklahoma, this message is sent:

Respectfully,

PAUL ZIRIAX

Secretary, Oklahoma State Senate

Received by the Secretary of State

RECEIVED

Date

MAY 25 2023

By OKLAHOMA SECRETARY OF STATE

3:49pm

7

15:45:00

RECEIVED

MAY 26 2023

OKLAHOMA SECRETARY OF STATE

@10:52AM

OFFICE OF

THE GOVERNOR
STATE OF OKLAHOMA

No. SB 563

OKLAHOMA CITY, OKLA., April 28, 2023

TIME SIGNED: 5:09 pm

TO THE HONORABLE PRESIDENT PRO TEMPORE
AND MEMBERS OF THE OKLAHOMA SENATE
FIRST REGULAR SESSION OF THE
FIFTY-NINTH OKLAHOMA LEGISLATURE

ENROLLED SENATE BILL NO. 563:

Pursuant to the authority vested in me by Section 11 of Article VI of the Oklahoma Constitution, I have vetoed Enrolled Senate Bill 563.

Enrolled Senate Bill 563 would ensure anesthesia providers continue to be reimbursed in amounts equal to or greater than the fee schedule established by the Oklahoma Health Care Authority as of January 1, 2021. The bill also authorizes anesthesia providers to enter into value-based or alternative payment arrangements for services furnished to Medicaid members.

Essentially, this bill would return anesthesia providers to a fee-for-service model, thereby undoing the progress we've made ushering in managed care. Moreover, I cannot, in good conscience, sign a bill that arbitrarily preferences anesthesia providers over others.

For these reasons, I have vetoed Enrolled Senate Bill 563.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

Delivered to SENATE by: James Curry

Date/Time: 4/28/23; 5:35 pm

SENATE:

By Becky Welch

Date/Time 4-28-23 5:41 pm

5:50 pm
RECEIVED
APR 28 2023
OKLAHOMA SECRETARY
OF STATE