

1 STATE OF OKLAHOMA

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

3 SENATE BILL 824

By: Pederson

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5  
6 AS INTRODUCED

7 An Act relating to ambulance service providers;  
8 creating the Ambulance Service Provider Access  
9 Payment Program Act; providing short title; defining  
10 terms; providing for certain assessment; exempting  
11 certain ambulance services; providing assessment  
12 methodology; providing for adjusted assessments under  
13 certain conditions; voiding program under certain  
14 conditions; directing promulgation of rules;  
15 providing for administrative penalties; creating  
16 Ambulance Service Provider Access Payment Program  
17 Fund; providing source of monies; providing for  
18 notice of assessment; requiring quarterly payments;  
19 providing exception for first installment; providing  
20 certain penalty; specifying certain appeals  
21 procedures; providing assessment for new provider;  
22 providing for ambulance service provider access  
23 payments; specifying date and frequency of payments,  
24 calculation methodology, eligibility, prohibiting  
offset of certain payments; requiring refund under  
certain condition; directing budgeting and  
expenditure of monies; stating allowed expense;  
prohibiting certain use of monies; providing certain  
exemption; stipulating certain lack of guarantee;  
providing for certain appeals; specifying that monies  
are supplemental; prohibiting certain adjustment of  
Medicaid reimbursement; requiring Oklahoma Health  
Care Authority to cease collection of fees and refund  
providers under certain condition; directing  
Authority to seek certain federal approval; requiring  
certain actions if approval denied; providing for  
codification; and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 3242.1 of Title 63, unless there  
3 is created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "Ambulance  
5 Service Provider Access Payment Program Act".

6 SECTION 2. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 3242.2 of Title 63, unless there  
8 is created a duplication in numbering, reads as follows:

9 As used in the Ambulance Service Provider Access Payment Program  
10 Act:

11 1. "Air ambulance" means ambulance services provided by fixed  
12 or rotor wing ambulance services;

13 2. "Alliance" means the Oklahoma Ambulance Alliance or its  
14 successor association;

15 3. "Ambulance" means a motor vehicle or watercraft that is  
16 primarily used or designated as available to provide transportation  
17 and basic life support or advanced life support;

18 4. "Ambulance service" or "ambulance service provider" means  
19 any private firm or governmental agency which is or should be  
20 licensed by the State Department of Health to provide levels of  
21 medical care based on certification rules or standards promulgated  
22 by the State Commissioner of Health;

23 5. "Department" means the State Department of Health;

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1           6. "Emergency" or "emergent" means a serious situation or  
2 occurrence that happens unexpectedly and demands immediate action,  
3 such as a medical condition manifesting itself by acute symptoms of  
4 sufficient severity including severe pain such that the absence of  
5 immediate medical attention could reasonably be expected, by a  
6 reasonable and prudent layperson, to result in placing the patient's  
7 health in serious jeopardy, serious impairment to bodily function or  
8 serious dysfunction of any bodily organ or part;

9           7. "Emergency transfer" means the movement of an acutely ill or  
10 injured patient from the scene to a health care facility or the  
11 movement of an acutely ill or injured patient from one health care  
12 facility to another healthcare facility;

13           8. "Licensure" means the licensing of emergency ambulance  
14 services pursuant to rules and standards promulgated by the State  
15 Commissioner of Health;

16           9. "Net operating revenue" means the gross revenues earned for  
17 providing emergency and non-emergency transfers in Oklahoma  
18 excluding amounts refunded to or recouped, offset or otherwise  
19 deducted by a patient or payer for ground medical transportation;

20           10. "Non-emergency transfer" means the movement of any patient  
21 in an ambulance other than an emergency transfer;

22           11. "Upper payment limit" means the lesser of the customary  
23 charges of the ambulance service provider or the prevailing charges  
24 in the locality of the ambulance service provider for comparable  
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1 services under comparable circumstances, calculated according to  
2 methodology in an approved state plan amendment for the state  
3 Medicaid program; and

4 12. "Upper payment limit gap" means the difference between the  
5 upper payment limit of the ambulance service provider and the  
6 Medicaid payments not financed using the ambulance service provider  
7 assessments made to all ambulance service providers, provided that  
8 the upper payment limit gap is calculated separately for ambulance  
9 services and air ambulance services.

10 SECTION 3. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 3242.3 of Title 63, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. For the purpose of assuring access to quality emergency and  
14 non-emergency transfers for state Medicaid beneficiaries, the  
15 Oklahoma Health Care Authority shall, after considering input and  
16 recommendations from the Oklahoma Ambulance Alliance, assess  
17 ambulance service providers licensed in Oklahoma, unless exempt  
18 under subsection B of this section, an ambulance service provider  
19 access payment program fee.

20 B. The following ambulance services shall be exempt from the  
21 ambulance service provider access payment fee:

22 1. An ambulance service that is owned or operated by the state  
23 or a state agency, the federal government, a federally recognized  
24 Indian tribe, or the Indian Health Service;

1           2. An ambulance service that is eligible for supplemental  
2 Medicaid reimbursement under Section 3242 of Title 63 of the  
3 Oklahoma Statutes;

4           3. An ambulance service that provides air ambulance services  
5 only; or

6           3. An ambulance service that provides non-emergency transfers  
7 only or a de minimis amount of emergency medical transportation  
8 services, as determined by the Authority.

9           C. 1. The ambulance service provider access payment program  
10 fee shall be an assessment imposed on each ambulance service  
11 provider, except those exempted under subsection B of this section,  
12 for each calendar year in an amount calculated as a percentage of  
13 each ambulance service provider's net operating revenue.

14           2. The assessment rate shall be determined annually based upon  
15 the percentage of net operating revenue needed to generate an amount  
16 up to the sum of:

17           a. the nonfederal portion of the upper payment limit gap  
18 for all ambulance service providers eligible to  
19 receive Medicaid ambulance service provider access  
20 payments, plus

21           b. the annual fee to be paid to the Authority under  
22 subparagraph b of paragraph 2 of subsection F of  
23 Section 4 of this act, plus

1           c.    the amount to be transferred by the Authority to the  
2                    Medical Payments Cash Management Improvement Act  
3                    Programs Disbursing Fund under subparagraph a of  
4                    paragraph 2 of subsection F of Section 4 of this act.

5           In no event shall the assessment rate exceed the maximum rate  
6 allowed by federal law or regulation.

7           3.    The assessment rate described in this subsection shall be  
8 determined after consultation with the Alliance.    The base year for  
9 assessment, the method for calculating net operating revenue and  
10 related matters not provided for in this section shall be determined  
11 by rules promulgated by the Oklahoma Health Care Authority Board.

12           D.   1.   If an ambulance service provider conducts, operates or  
13 maintains more than one licensed ambulance service, the ambulance  
14 service provider shall pay the ambulance service provider access  
15 payment program fee for each ambulance service separately.    However,  
16 if the ambulance service provider operates more than one ambulance  
17 service under one Medicaid provider number, the ambulance service  
18 provider may pay the fee for the ambulance services in the  
19 aggregate.

20           2.    Notwithstanding any other provision of this section, if an  
21 ambulance service provider subject to the ambulance service provider  
22 access payment fee operates or conducts business only for a portion  
23 of a year, the assessment for the year shall be adjusted by  
24 multiplying the annual assessment by a fraction, the numerator of

1 which is the number of days in the year during which the ambulance  
2 service operates and the denominator of which is three hundred  
3 sixty-five (365). Immediately upon ceasing to operate, the  
4 ambulance service provider shall pay the assessment for the year as  
5 so adjusted, to the extent not previously paid.

6 3. The Authority shall determine the assessment for new  
7 ambulance services and ambulance services that undergo a change of  
8 ownership in accordance with this section, using the best available  
9 information, as determined by the Authority.

10 E. 1. In the event that federal financial participation  
11 pursuant to Title XIX of the Social Security Act is not available to  
12 the state Medicaid Program for purposes of matching expenditures  
13 from the Ambulance Service Provider Access Payment Program Fund at  
14 the approved federal medical assistance percentage for the  
15 applicable year, the ambulance service provider access payment  
16 program fee shall be null and void as of the date of the  
17 nonavailability of such federal funding through and during any  
18 period of nonavailability.

19 2. In the event of an invalidation of the Ambulance Service  
20 Provider Access Payment Program by any court of last resort, the  
21 program shall be null and void as of the effective date of that  
22 invalidation.

23 3. In the event that the Ambulance Service Provider Access  
24 Payment Program is determined to be null and void for any of the  
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1 reasons described in this subsection, any ambulance service provider  
2 access payment program fee assessed and collected for any period to  
3 which such invalidation applies shall be returned in full within  
4 twenty (20) days by the Authority to the ambulance service from  
5 which it was collected.

6 F. The Oklahoma Health Care Authority Board, after considering  
7 the input and recommendations of the Alliance, shall promulgate  
8 rules for the implementation and enforcement of the ambulance  
9 service provider access payment program fee. Unless otherwise  
10 provided, the rules promulgated under this subsection shall not  
11 grant any exceptions to or exemptions from the ambulance service  
12 provider access payment program fee imposed under this section.

13 G. The Authority shall provide for administrative penalties in  
14 the event an ambulance service provider fails to:

- 15 1. Submit the ambulance service provider access payment program  
16 fee;
- 17 2. Submit the fee in a timely manner;
- 18 3. Submit reports as required by the Authority;
- 19 4. Submit reports timely.

20 J. The Oklahoma Health Care Authority Board shall have the  
21 power to promulgate emergency rules to implement the provisions of  
22 Ambulance Service Provider Access Payment Program Act.



1 SECTION 4. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 3242.4 of Title 63, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. There is hereby created in the State Treasury a revolving  
5 fund to be designated the "Ambulance Service Provider Access Payment  
6 Program Fund".

7 B. The fund shall be a continuing fund, not subject to fiscal  
8 year limitations, be interest bearing and consist of:

9 1. All monies received by the Oklahoma Health Care Authority  
10 from ambulance services pursuant to the Ambulance Service Provider  
11 Access Payment Program Act and otherwise specified or authorized by  
12 law;

13 2. Any interest or penalties levied and collected in  
14 conjunction with the administration of this section; and

15 3. All interest attributable to investment of money in the  
16 fund.

17 C. 1. The Authority shall send a notice of assessment to each  
18 ambulance service provider informing the ambulance service provider  
19 of the assessment rate, the ambulance service provider's net  
20 operating revenue calculation, and the assessment amount owed by the  
21 ambulance service provider for the applicable year.

22 2. Annual notices of assessment shall be sent at least thirty  
23 (30) days before the due date for the first quarterly assessment  
24 payment of each year.

1           3. The first notice of assessment shall be sent within forty-  
2 five (45) days after receipt by the Authority of notification from  
3 the Centers for Medicare and Medicaid Services that assessments and  
4 payments required under the Ambulance Service Provider Access  
5 Payment Program Act and, if necessary, the wavier granted under 42  
6 C.F.R., Section 433.68 have been approved.

7           4. The ambulance service provider shall have thirty (30) days  
8 from the date of its receipt of a notice of assessment to review and  
9 verify the assessment rate, the ambulance service provider's net  
10 operating revenue calculation and the assessment amount.

11           D. 1. The annual assessment imposed under Section 3 of this  
12 act shall be due and payable on a quarterly basis. However, the  
13 first installment payment of an assessment imposed by the Ambulance  
14 Service Provider Access Payment Act shall not be due and payable  
15 until:

- 16           a. the Authority issues written notice stating that the  
17 assessment and payment methodologies required under  
18 the Ambulance Service Provider Access Payment Act,  
19 have been approved by Centers for Medicare and  
20 Medicaid Services and the waiver under 42 C.F.R.,  
21 Section 433.68, if necessary, has been granted by the  
22 Centers for Medicare and Medicaid Services,  
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1           b. the thirty-day verification period required by  
2           paragraph 4 of subsection C of this section has  
3           expired, and

4           c. the Authority issues a notice giving a due date for  
5           the first payment.

6           2. After the initial installment of an annual assessment has  
7           been paid under this section, each subsequent quarterly installment  
8           payment shall be due and payable by the fifteenth day of the first  
9           month of the applicable quarter.

10          3. If an ambulance service provider fails to timely pay the  
11          full amount of a quarterly assessment, the Authority shall add to  
12          the assessment:

13           a. a penalty assessment equal to five percent (5%) of the  
14           quarterly amount not paid on or before the due date,  
15           and

16           b. on the last day of each quarter after the due date  
17           until the assessed amount and the penalty imposed  
18           under subparagraph a of this paragraph are paid in  
19           full, an additional five-percent penalty assessment on  
20           any unpaid quarterly and unpaid penalty assessment  
21           amounts.

22          4. The quarterly assessment including applicable penalties and  
23          interest must be paid regardless of any appeals action requested by  
24          the ambulance provider. If a provider fails to pay the Authority

1 the assessment within the time frames noted on the invoice to the  
2 provider, the assessment, applicable penalty and interest shall be  
3 deducted from the provider's payment. Any change in payment amount  
4 resulting from an appeals decision will be adjusted in future  
5 payments.

6 5. An ambulance service provider subject to the assessment  
7 under the Ambulance Service Provider Access Payment Program Act that  
8 has not been previously licensed as an ambulance service in Oklahoma  
9 and that commences operations during a year, shall pay the required  
10 assessment computed under Section 3 of this act and shall be  
11 eligible for ambulance service provider access payments under this  
12 section on the date specified in the rules promulgated by the  
13 Authority after consideration of input and recommendations of the  
14 Oklahoma Ambulance Alliance.

15 E. 1. To preserve the quality and improve access to ambulance  
16 services rendered on or after the effective date of this act, the  
17 Authority shall make ambulance service provider access payments as  
18 set forth in this section.

19 2. The Authority shall pay all quarterly ambulance service  
20 provider access payments within ten (10) calendar days of the due  
21 date for quarterly assessment payments established in subsection D  
22 of this section.

23 3. The Authority shall calculate the ambulance service provider  
24 access payment amount as the balance of the Ambulance Service  
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1 Provider Access Payment Program Fund plus any federal matching funds  
2 earned on the balance, up to but not to exceed the upper payment  
3 limit gap for all ambulance service providers.

4 4. All ambulance service providers shall be eligible for  
5 ambulance service provider access payments each year as set forth in  
6 this subsection except ambulance services excluded or exempted in  
7 subsection B of Section 3 of this act.

8 5. Access payments shall be made on a quarterly basis.

9 6. Ambulance service provider access payments shall not be used  
10 to offset any other payment by Medicaid for services to Medicaid  
11 beneficiaries.

12 7. If the Centers for Medicare and Medicaid Services finds that  
13 the Authority has made payments to ambulance service providers that  
14 exceed the upper payment limits, ambulance service providers shall  
15 refund to the Authority a share of the recouped federal funds that  
16 is proportionate to the ambulance services' contribution to the  
17 upper payment limit.

18 F. 1. All monies accruing to the credit of the Ambulance  
19 Service Provider Access Payment Program Fund are hereby appropriated  
20 and shall be budgeted and expended by the Authority after  
21 consideration of the input and recommendation of the Alliance.

22 2. Monies in the Ambulance Service Provider Access Payment  
23 Program Fund shall be used only for:  
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- 1 a. transfers to the Medical Payments Cash Management  
2 Improvement Act Programs Disbursing Fund for the state  
3 share of ambulance service provider access payments  
4 for ambulance service providers that participate in  
5 the assessment,
- 6 b. transfers to the Administrative Revolving Fund for the  
7 state share of payment of administrative expenses  
8 incurred by the Authority or its agents and employees  
9 in performing the activities authorized by the  
10 Ambulance Service Provider Access Payment Program Act  
11 but not more than Two Hundred Thousand Dollars  
12 (\$200,000.00) each year, and
- 13 c. the reimbursement of monies collected by the Authority  
14 from ambulance services through error or mistake in  
15 performing the activities authorized under the  
16 Ambulance Service Provider Access Payment Program Act.

17 3. The Authority shall pay from the Ambulance Service Provider  
18 Access Payment Program Fund quarterly installment payments to  
19 ambulance service providers of amounts available for ambulance  
20 service provider access payments.

21 4. Monies in the Ambulance Service Provider Access Payment  
22 Program Fund shall not be used to replace other general revenues  
23 appropriated and funded by the Legislature or other revenues used to  
24 support Medicaid.

1           5. The Ambulance Service Provider Access Payment Program Fund  
2 and the program specified in the Ambulance Service Provider Access  
3 Payment Program Act are exempt from budgetary reductions or  
4 eliminations caused by the lack of general revenue funds or other  
5 funds designated for or appropriated to the Authority.

6           6. No ambulance service provider shall be guaranteed, expressly  
7 or otherwise, that any additional costs reimbursed to the provider  
8 will equal or exceed the amount of the ambulance service provider  
9 access payment program fee paid by the ambulance service.

10           H. After considering input and recommendations from the  
11 Alliance, the Oklahoma Health Care Authority Board shall promulgate  
12 rules that:

13           1. Allow for an appeal of the annual assessment of the  
14 Ambulance Service Provider Access Payment Program payable under this  
15 act; and

16           2. Allow for an appeal of an assessment of any fees or  
17 penalties determined.

18           SECTION 5.       NEW LAW       A new section of law to be codified  
19 in the Oklahoma Statutes as Section 3242.5 of Title 63, unless there  
20 is created a duplication in numbering, reads as follows:

21           A. The ambulance service provider access payment program fee is  
22 to supplement, not supplant, appropriations to support ambulance  
23 service provider reimbursement. If Medicaid reimbursement rates to  
24 providers are adjusted, ambulance service provider rates shall not

1 be adjusted less favorably than the average percentage-rate  
2 reduction or increase applicable to the majority of other provider  
3 groups.

4 B. Notwithstanding any other provision of the Ambulance Service  
5 Provider Access Payment Program Act, if, after receipt of  
6 authorization to receive federal matching funds for monies generated  
7 by the Ambulance Service Provider Access Payment Program Act, the  
8 authorization is withdrawn or changed so that federal matching funds  
9 are no longer available, the Oklahoma Health Care Authority shall  
10 cease collecting the provider fee and shall repay to the ambulance  
11 services any money received by the Ambulance Service Provider Access  
12 Payment Program that is not subject to federal matching funds.

13 SECTION 6. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 3242.6 of Title 63, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. The Oklahoma Health Care Authority shall submit to the  
17 Oklahoma Ambulance Alliance a proposed state plan amendment to  
18 implement the requirements of the Ambulance Service Provider Access  
19 Payment Program Act including the payment of ambulance service  
20 provider access payments under Section 4 of this act, no later than  
21 forty-five (45) days after the effective date of this act, and shall  
22 submit the state plan amendment to the Centers for Medicare and  
23 Medicaid Services after consideration of the input and  
24 recommendations of the Alliance.



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B. If the state plan amendment is not approved by the Centers for Medicare and Medicaid Services, the Authority shall:

1. Not implement the assessment imposed under the Ambulance Service Provider Access Payment Program Act; and

2. Return any fees to ambulance services that paid the fees if any such fees have been collected.

SECTION 7. This act shall become effective November 1, 2021.

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