An Act

(1ST EXTRAORDINARY SESSION)
ENROLLED SENATE
BILL NO. 4X

By: Bingman, Sykes, Jolley and Shortey of the Senate

and

Shannon, Stiles, Wright and Ritze of the House

An Act relating to recovery of payments; repealing 12 O.S. 2011, Section 994.1, which relates to Medicaid recovery; providing for recovery of certain payments; establishing procedures for certain recovery; providing computations; directing determination of recovery amounts; granting certain authority to the Oklahoma Health Care Authority; providing for codification; and declaring an emergency.

SUBJECT: Recovery of payments

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

SECTION 1. REPEALER 12 O.S. 2011, Section 994.1, is hereby repealed.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 994.2 of Title 12, unless there is created a duplication in numbering, reads as follows:

A. Recovery against the party that received payment.

1. General rule. Medicaid reduces its recovery to take account of the cost of procuring the judgment or settlement, as provided in this section, if:

a. procurement costs are incurred because the claim is disputed, and

b. those costs are borne by the party against which the Oklahoma Health Care Authority seeks to recover.

2. Special rule. If the Oklahoma Health Care Authority must file suit because the party that received payment opposes the Authority's recovery, the recovery amount is as set forth in subsection E of this section.

B. Recovery against the third-party payer. If the Oklahoma Health Care Authority seeks recovery from the third-party payer, the recovery amount will be no greater than the amount determined under subsection C, D or E of this section.

C. Medicaid payments are less than the judgment or settlement amount. If Medicaid payments are less than the judgment or settlement amount, the recovery is computed as follows:

1. Determine the ratio of the procurement costs to the total judgment or settlement payment;

2. Apply the ratio to the Medicaid payment. The product is the Medicaid share of procurement costs;

3. Subtract the Medicaid share of procurement costs from the Medicaid payments. The remainder is the Medicaid recovery amount.

D. Medicaid payments equal or exceed the judgment or settlement amount. If Medicaid payments equal or exceed the judgment or settlement amount, the recovery amount is the total judgment or settlement payment minus the total procurement costs.

E. The Oklahoma Health Care Authority incurs procurement costs because of opposition to its recovery. If the Oklahoma Health Care Authority must bring suit against the party that received payment because that party opposes the Authority's recovery, the recovery amount is the lower of the following:

1. Medicaid payment; or

2. The total judgment or settlement amount, minus the party's total procurement cost.

F. Medicaid recovery worksheet. The amount to be recovered from the beneficiary is the amount Medicaid paid, less a proportionate share of the costs of procuring the judgment or settlement. The amount to be refunded is determined as follows:

If the Medicaid payment is less than the amount of judgment or settlement:

a. determine the ratio of the Medicaid payments to the total amount of the judgment or settlement,

b. apply this ratio to the costs of procuring the judgment or settlement, including attorney fees, and

c. subtract the Medicaid share of procurement costs from Medicaid payments. The remainder is the amount of reimbursement to be refunded to the Medicaid Program.

Step 1:

$_____	/	$_____	=	_____
Medicaid Payment		Judgment/Settlement		Ratio Carry out 6 digits

Step 2:

_____	X	$_____	=	_____
Ratio from Step 1 Carry out 6 digits		Procurement Costs		Medicaid Share of Procurement Costs

Step 3:

$_____ - $_____ = _____

Medicaid Payment Medicaid Share of Refund to Medicare

Procurement Costs

G. If the Medicaid payments equal or exceed the amount of the judgment or settlement, subtract the total procurement costs from the judgment or settlement. The remainder is the amount of reimbursement to be refunded to the Medicaid Program. The individual will not be required to refund more than the liability insurance payment minus the procurement costs.

$_____ - $_____ = $_____

Judgment/Settlement Procurement Costs Refund

H. The Oklahoma Health Care Authority is authorized to seek from the Centers for Medicare and Medicaid Services any waivers or amendments to existing waivers or to amend the state Medicaid plan in order to accomplish the purposes outlined in this section.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and 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 5th day of September, 2013.

Presiding Officer of the Senate

Passed the House of Representatives the 9th day of September, 2013.

Presiding Officer of the House of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 9th day of September, 20 13, at 5:05 o'clock P M.

By: Avary Rockwell

Approved by the Governor of the State of Oklahoma this 10th day of September, 20 13, at 4:28 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 10th day of September, 20 13, at 4:47 o'clock P M.

By: Chris Morris