Oklahoma Health Care Authority

The Oklahoma Health Care Authority (OHCA) values your feedback and input. It is very important that you provide your comments regarding the proposed rule change by the comment due date. Comments can be submitted on the OHCA's Proposed Changes Blog.

OHCA COMMENT DUE DATE: January 2, 2024

The proposed policy changes are currently in effect as Emergency Rules and must be promulgated as Permanent Rules. The proposal was presented at the Tribal Consultation held on January 3, 2023 and the Medical Advisory Committee held on March 2, 2023. Additionally, the proposed policy will be presented at a Public Hearing scheduled for January 8, 2024 and are scheduled to be presented as Permanent Rules to the OHCA Board of Directors on January 17, 2024.

SUMMARY:

State Plan Personal Care Services for Expansion Adults, TEFRA Eligible Children and Certain MAGI populations – The policy additions create a Subchapter 16 titled, State Plan Personal Care (SPPC) Services for Expansion Adults, Tax Equity and Fiscal Responsibility Act (TEFRA) eligible children and certain modified adjusted gross income (MAGI) populations in Chapter 35 of Title 317. The proposed rules support and outline that OHCA staff will be responsible in assisting these populations in attaining SPPC services. These rules delineate and include eligibility conditions, definitions, medical eligibility minimum criteria for personal care, financial eligibility, and billing.

LEGAL AUTHORITY:

The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; Oklahoma Title XIX State Plan; Section 1937 of the Social Security Act; 42 CFR 440.167

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA
OKLAHOMA HEALTH CARE AUTHORITY

SUBJECT: Rule Impact Statement
APA WF # 23-01

A. Brief description of the purpose of the rule:

There are currently no agency rules that outline the eligibility process for providers, expansion adult members, TEFRA eligible children, nor certain MAGI populations when they are in need of State Plan Personal Care (SPPC) services. The OHCA's Population Care Management staff will be responsible for determining the SPPC medical necessity for this population and rules will be added to outline the processes.

The policy additions create a Subchapter 16 titled, State Plan Personal Care (SPPC) Services for Expansion Adults, TEFRA eligible children, and certain MAGI populations in Chapter 35 of Title 317. The proposed rules support and outline that OHCA staff are responsible in assisting these populations in attaining SPPC services. These rules delineate and include eligibility conditions, definitions, medical eligibility minimum criteria for personal care, financial eligibility, and billing.

The proposed rule changes ensure SPPC services are accessible by expansion adults, TEFRA eligible children, and certain MAGI populations as the Title XIX Alternative Benefit Package (ABP) for expansion adults members includes SPPC services.

B. A description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the cost of the proposed rule, and any information on cost impacts received by the agency from any private or public entities:

SPPC providers, expansion adults, TEFRA eligible children, and certain MAGI populations will most likely be affected by the proposed rule changes as they will now have access to SPPC services. This rule should not place any cost or burden on private or public entities. No information on any cost impacts were received from any entity.

C. A description of the classes of persons who will benefit from the proposed rule:

The proposed rule changes will benefit expansion adults, TEFRA eligible children and certain MAGI populations. Personal care activities generally prevent or minimize physical health regression or deterioration.

D. A description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

There is no economic impact and there are no fee changes associated with the rule change for the above classes of persons or any political subdivision.

E. The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency:

The estimated budget impact, for SFY2023, is an increase in the total amount of $91,173; with $25,200 in state share. The estimated budget impact, for SFY2024 is an increase in the total amount of $273,520; with $88,921 in state share.

F. A determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:

The proposed rule will not have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule.

G. A determination of whether implementation of the proposed rule will have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

The proposed rule will not have an adverse effect on small businesses as provided by the Oklahoma Small Business Regulatory Flexibility Act.

H. An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rule:

The Agency has taken measures to determine that there is no less costly or non-regulatory method or less intrusive method for achieving the purpose of the proposed rule.

I. A determination of the effect of the proposed rule on the public health, safety, and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety, and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:

The proposed rule brings the rules into compliance with federal law, thereby increasing program effectiveness positively impacting the health, safety, and well-being of individuals receiving SPPC services.

J. A determination of any detrimental effect on the public health, safety, and environment if the proposed rule is not implemented:

The Agency does not anticipate any detrimental effect on the public health, safety, or environment if the proposed rule changes are not implemented.

K. The date the rule impact statement was prepared and if modified, the date modified:

Prepared: January 4, 2023
Modified: November 14, 2023

RULE TEXT

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

SUBCHAPTER 16. STATE PLAN PERSONAL CARE SERVICES FOR EXPANSION ADULTS, TEFRA ELIGIBLE CHILDREN AND CERTAIN MAGI POPULATIONS

317:35-16-1. State Plan Personal Care Services (SPPC)

(a) The State Plan Personal Care services described in this subchapter are available to the following:

(1) Expansion adults;

(2) TEFRA children; and

(3) Certain MAGI populations (children) who qualify under the EPSDT program.

(b) SPPC services assist a member in carrying out Activities of Daily Living (ADLs) or Instrumental Activities of Daily Living (IADLs) directly related to the member's personal care needs. SPPC services prevent or minimize physical health regression or deterioration. SPPC services require a skilled nursing assessment to:

(1) Assess a member's needs;

(2) Develop a care plan to meet the member's identified personal care needs;

(3) Manage care plan oversight; and

(4) Periodically reassess and update the care plan when necessary.

(c) SPPC services do not include technical services, such as:

(1) Suctioning;

(2) Tracheal care;

(3) Gastrostomy-tube feeding or care;

(4) Specialized feeding due to choking risk;

(5) Applying compression stockings;

(6) Bladder catheterization;

(7) Colostomy irrigation;

(8) Wound care;

(9) Applying prescription lotions or topical ointments;

(10) Range of motion exercises; or

(11) Operating equipment of technical nature, such as a patient lift or oxygen equipment.

(d) SPPC members may receive services in limited types of living arrangements as per (1) through (5) of this subsection.

(1) SPPC members are not eligible to receive services while residing in an institutional setting including, but not limited to:

(A) Licensed facilities, such as a:

(i) Hospital;

(ii) Nursing facility;

(iii) Licensed residential care facility; or

(iv) Licensed assisted living facility; or

(B) In an unlicensed institutional living arrangement, such as a room and board home or facility.

(2) SPPC is not approved when the member lives in the personal care assistant's (PCA) home, except with approval of the OHCA supervisor overseeing SPPC. For approval, a clinical evaluation of the household composition must be conducted and reviewed. The clinical evaluation shall include, but is not limited to, the following:

(A) Informal supports available;

(B) All legal obligations of the household member, including the individual who is a legally responsible family member such as a spouse, legal guardian, or parent of a minor child as defined per OAC 317:35-16-7(3);

(C) Urgency of the services; and

(D) Any other factors that may arise warranting approval as determined by the OHCA Supervisor.

(3) Members may receive SPPC services in the member's own home, apartment, or a family member's or friend's home or apartment. A home or apartment unit is defined as a self-contained living space having a lockable entrance to the unit including a bathroom and food storage and preparation amenities in addition to bedroom and living space.

(4) For SPPC members who are full-time students, a dormitory room qualifies as an allowable living arrangement to receive SPPC services.

(5) With prior approval from an OHCA supervisor overseeing SPPC, services may be provided in an educational or employment setting to assist the member to achieve vocational goals identified in the care plan.

(e) SPPC services eligibility is contingent on a member requiring one (1) or more of the services offered at least monthly including personal care, meal preparation, housekeeping, laundry, shopping or errands, or specified special tasks to meet ADL or IADL assessed needs.

317:35-16-2. Determination of medical eligibility for State Plan Personal Care (SPPC) services for Expansion Adults, TEFRA, and certain MAGI populations

(a) **Eligibility.** The OHCA Clinical Review team (OHCA nurse) determines medical eligibility for SPPC services based on the Uniform Comprehensive Assessment Tool (UCAT) Part III and the determination that the member has unmet care needs that require personal care assistance. SPPC services are initiated to support the regular care provided in the member's home. SPPC services are not intended to take the place of regular care, general maintenance tasks, or meal preparation provided by natural supports, such as spouses or other adults who live in the same household. Additionally, SPPC services are not furnished when they principally benefit the family unit. To be eligible for SPPC services, the applicant:

(1) Has adequate informal supports. This means there is adult supervision that is present or available to contribute to care, or decision-making ability, as documented on the UCAT Part III. To remain in his or her home without risk to his or her health, safety, and well-being, the applicant:

(A) Must have the decision-making ability to respond appropriately to situations that jeopardize his or her health and safety, or has available supports that compensate for his or her lack of ability as documented on the UCAT Part III; or

(B) His or her decision-making ability, lacks the physical capacity to respond appropriately to situations that jeopardize health and safety, and an OHCA nurse has informed his/her of potential risks and consequences of remaining in the home.

(2) Requires a care plan for planning and administering services delivered under a professional personnel's supervision;

(3) Has a physical impairment or combination of physical and mental impairments as documented on the UCAT Part III. An applicant who poses a threat to himself or herself or others, as supported by professional or credible documentation, may not be approved for SPPC services. An individual who is actively psychotic or believed to be in danger of potential harm to himself or herself or others may not be approved;

(4) Does not have household members or persons who routinely visit the household who, as supported by professional or credible documentation, pose a threat of harm or injury to the

applicant or other household visitors;

(5) Lacks the ability to meet personal care needs without additional supervision or assistance, or to communicate needs to others; and

(6) Requires assistance, not of a technical nature, to prevent or minimize physical health regression and deterioration.

(b) **Definitions.** The following words and terms, when used in this subsection, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Activities of Daily Living" (ADL)** means activities that reflect the applicant's or member's ability to perform self-care tasks essential for sustaining health and safety, such as:

(A) Bathing;

(B) Eating;

(C) Dressing;

(D) Grooming;

(E) Transferring, including activities such as getting in and out of a tub or moving from bed to chair;

(F) Mobility;

(G) Toileting; and

(H) Bowel or bladder control.

(2) **"ADLs score of three (3) or greater"** means the applicant or member cannot do at least one (1) ADL at all or needs some help with two (2) or more ADLs.

(3) **"Applicant or Member support very low"** means the applicant's or member's UCAT Part III Support score is zero (0), this indicates, in the UCAT Part III assessor's clinical judgment, the formal and informal sources are sufficient for the applicant's or member's present need level in most functional areas.

(4) **"Applicant or Member support low"** means the member's UCAT Part III Support score is five (5), this indicates, in the UCAT Part III assessor's clinical judgment, the support from formal and informal sources are nearly sufficient for the applicant's or member's present need level in most functional areas. The applicant or member, family, or informal supports are meeting most needs typically expected of family or household members to share or do for one another, such as general household maintenance. There is little risk of institutional placement with loss of current supports.

(5) **"Applicant or Member support moderate"** means the UCAT Part III applicant or member score is fifteen (15), this indicates, in the UCAT Part III assessor's clinical judgment, the formal and informal support is available, but overall, it is inadequate, changing, fragile, or otherwise problematic. The applicant or member requires additional assistance that usually includes personal care assistance with one (1) or more ADLs not available through Medicare, the Veterans Administration, or other federal entitlement programs. Informal caregiver support is considered questionable or unreliable due to one (1) or more criteria in (A) through (D) of this paragraph:

(A) Care or support is required continuously with no relief or backup available;

(B) Informal support lacks continuity due to conflicting responsibilities such as work or child care;

(C) Persons with advanced age or disability provide care; or

(D) Institutional placement can reasonably be expected with any loss of existing support.

(6) **"Applicant or Member support high"** means the applicant or member score is twenty-

five (25) this indicates, in the UCAT Part III assessor's clinical judgment, the formal and informal supports are not sufficient as there is very little or no support available to meet the applicant's or member's high degree of need.

(7) **"Community Services Worker"** means any non-licensed health professional employed by or under contract with a community services provider who provides, for compensation or as a volunteer, health-related services, training, or supportive assistance to frail elderly, disabled person(s), or person(s) with developmental disabilities.

(8) **"Community Services Worker Registry"** means aa registry established by the OKDHS per Section (§) 1025.1 of Title 56 of the Oklahoma Statutes (O.S.) to list community services workers who have a final investigative finding of abuse, neglect, or exploitation, per 43A O.S. § 10-103, involving a frail elderly, disabled person(s), or person(s) with developmental disabilities was made by OKDHS or an administrative law judge; and amended in 2002, to include the listing of SoonerCare (Medicaid) personal care assistants (PCAs) providing personal care services.

(9) **"Instrumental Activities of Daily Living (IADL)"** means those daily activities that reflect the applicant or member's ability to perform household chores and tasks within the community essential for sustaining health and safety, such as:

(A) Shopping;
(B) Cooking;
(C) Cleaning;
(D) Managing money;
(E) Using a phone;
(F) Doing laundry;
(G) Taking medication; and
(H) Accessing transportation.

(10) **"IADLs score is at least six (6)"** means the applicant or member needs some help with at least three (3) IADLs or cannot do two (2) IADLs at all.

(11) **"IADLs score of eight (8) or greater"** means the applicant or member needs some help with at least four (4) IADLs or the member cannot do two (2) IADLs at all and needs some help with one (1) or more other IADLs.

(12) **"MSQ"** means the Mental Status Questionnaire.

(13) **"MSQ moderate risk range"** means a total weighted-score of seven (7) to eleven (11) that indicates an orientation-memory-concentration impairment or memory impairment.

(14) **"Nutrition moderate risk"** means a total weighted UCAT Part III Nutrition score is eight (8) or greater that indicates poor appetite or weight loss combined with special diet requirements, medications, or difficulties in eating.

(15) **"Social Resource score is eight (8) or more"** means the applicant or member lives alone, has no informal support when he or she is sick or needs assistance, or has little or no contact with others.

(c) **Medical eligibility minimum criteria for SPPC.** The medical eligibility minimum criteria for SPPC services are the minimum UCAT score criteria that an applicant or member meets for medical eligibility and are:

(1) ADLs score is five (5) or greater; or has an IADLs score of eight (8) or greater; or Nutrition score is (8) or greater; or the MSQ score is seven (7) or greater; or the ADLs score is three (3) and IADLs score is at least six (6); and

(2) Applicant or Member Support score is fifteen (15) or more; or Applicant or Member Support score is five (5) and the Social Resources score is eight (8) or greater.

(d) **Medical eligibility determination.** Medical eligibility for personal care is determined by the OHCA. The medical decision for personal care is made by the OHCA supervisor, overseeing SPPC services, utilizing the UCAT Part III. The member will be notified prior to UCAT III assessment that the result could indicate a need for disability review.

(1) Referrals will be made to the OKDHS if the applicant requires a disability review based on information obtained in referral and/or UCAT Part III.

(2) Upon receipt of the referral the OHCA nurse is responsible for completing the UCAT Part III assessment visit within ten (10) business days of the personal care application for the applicant who is SoonerCare eligible at the time of the request. The OHCA nurse completes the assessment visit within twenty (20) business days of the referral for the applicant not determined SoonerCare eligible at the time of the request. When the application indicates the request is from an individual who resides at home and an immediate response is required to ensure the applicant's health and safety, to prevent an emergency situation, or to avoid institutional placement, the UCAT Part III assessment visit has top-scheduling priority.

(3) During the assessment visit, the OHCA nurse completes the UCAT III and reviews rights to privacy, fair hearing, provider choice, and the pre-service acknowledgement agreement with the member. The OHCA nurse informs the applicant of medical eligibility criteria and provides information about OHCA long-term care service options. The OHCA nurse documents if the member wants to be considered for nursing facility level of care services or if the member is applying for a specific service program on the UCAT Part III. When, based on the information obtained during the assessment, the OHCA nurse determines if the member may be at risk for health and safety, an immediate referral is made to Adult Protective Services or Child Protective Services, as applicable. The referral is documented on the UCAT Part III.

(A) When the applicant's needs cannot be met by personal care services alone, the OHCA nurse provides information about other community long-term care service options. The OHCA nurse assists in accessing service options the applicant or member selects in addition to, or in place of, SPPC services.

(B) When multiple household members are applying for SoonerCare SPPC services, the UCAT Part III assessment is done for all the household members at the same time.

(C) The OHCA nurse provides the applicant or member with information about the qualified agencies in his or her local area that provide services and obtains the applicant's or member's primary and secondary agency choice. When the applicant or family declines to choose a primary personal care service agency, the round-robin rotation system is used for agency selection. The OHCA nurse documents the selected personal care provider agency's name.

(4) The OHCA nurse completes the UCAT Part III and sends it to an alternate OHCA nurse for medical eligibility determination. SPPC services eligibility is established on the date medical eligibility is approved and financial eligibility is established. This date serves as the certification date for services to be initiated.

(A) When the time length from the initial assessment to the date of service eligibility determination exceeds ninety (90) calendar days, a new UCAT Part III assessment is required.

(B) The OHCA nurse assigns a medical certification period of not more than thirty-six

(36) months for persons eighteen (18) years of age and older or not more than twelve (12) months for persons younger than eighteen (18) years of age. The service plan period is for twelve (12) months and is provided by the OHCA nurse.

(5) Upon establishing SPPC certification, the OHCA nurse notifies the applicant's or member's preferred provider agency, or when necessary, the secondary provider agency or the provider agency selected by the round robin rotation system. Within one (1) business day of provider agency acceptance, the OHCA nurse submits the information via electronic system to the provider agency for plan development. Refer to OAC 317:35-15-8(a).

(6) Following the provider agency's SPPC plan development, and within three (3) business days of receipt from the provider agency, the OHCA nurse reviews the documentation to ensure agreement with the plan. Once agreement is established, the plan is submitted to OHCA Personal Care Supervisor for review and then the plan is authorized.

(7) Within one (1) business day of knowledge of the authorization, the OHCA nurse submits the plan authorization to the provider agency via electronic system.

317:35-16-3. Certification for State Plan Personal Care

(a) **State Plan Personal Care (SPPC) certification period.** The first month of the SPPC certification period is the first month the member is determined financially and medically eligible for SPPC. When eligibility or ineligibility for SPPC is established, OHCA updates the computer-generated notice and the appropriate notice is mailed to the member.

(b) **Financial certification period.** The financial certification period for SPPC services is twelve (12) months. Eligibility redetermination is completed according to the categorical relationship.

(c) **Medical certification period.** A medical certification period of not more than thirty-six (36) months is assigned for a member who is approved for SPPC. The certification period for SPPC services is based on the Uniform Comprehensive Assessment Tool evaluation and clinical judgment of the OHCA nurse.

317:35-16-4. Agency State Plan Personal Care (SPPC) service authorization and monitoring

(a) Within ten (10) business days of referral receipt for SPPC services, the personal care provider agency nurse completes an assessment of the member's personal care service needs and completes and submits a person-centered plan based on the member's needs to the OHCA nurse. The plan includes the:

(1) Adv/SPPC-Nurse Evaluation;

(2) SPPC-Service Planning; and

(3) SPPC Member Service Agreement.

(b) When more than one (1) person in the household is referred to receive SPPC or ADvantage services, all household members' plans are discussed and developed with the eligible members so service delivery is coordinated to achieve the most efficient use of resources. The number of SPPC service units authorized for each individual is distributed between all eligible family members. This ensures one (1) family member's absence does not adversely affect the family member(s) remaining in the home. When one (1) or more persons in the same household with a SPPC member is referred to or receives other formal services, such as ADvantage or Developmental Disability Services, then those services are coordinated as well.

(c) The personal care provider agency receives documentation from the OHCA nurse for authorization to begin services. The agency provides a copy of the plan to the member upon

initiating services.
(d) Prior to the provider agency placing a Personal Care Assistant (PCA) in the member's home or other service-delivery setting, an Oklahoma State Bureau of Investigation background check, an Oklahoma State Department of Health Registry check, and an OKDHS Community Services Worker Registry check is completed per Sections 1-1944 through 1-1948 of Title 63 of the Oklahoma Statutes. Payment is made for PCAs who provide SPPC services and meet criteria Oklahoma Administrative Code (OAC) 317:35-15-2(c) (1) through (8).
(e) The provider agency nurse monitors the member's care plan.

(1) The personal care provider agency nurse or staff contacts the member within five (5) business days of authorized document receipt in order to ensure services are implemented according to the authorized care plan.

(2) The provider agency nurse makes a monitoring visit using the Adv/SPPC Nurse Evaluation at least every six (6) months to assess the member's satisfaction with his or her care and to evaluate the care plan for adequacy of goals and authorized units. Whenever a monitoring visit is made, the provider agency nurse documents findings in the electronic system. The provider agency submits monitoring documentation to OHCA nurse for review within five (5) business days of the visit. A registered nurse (RN) conducts the monitoring visit when the PCA is performing hands-on personal care. A licensed practical nurse may only conduct the monitoring visit when the PCA is not performing hands-on personal care. An RN also co-signs the progress notes.

(3) The provider agency nurse's requests to change the number of authorized units in the SPPC plan are submitted via the electronic system to the OHCA nurse to approve or deny prior to changed number of authorized units implementation.

(4) Annually, or more frequently when the member's needs change, the provider agency nurse re-assesses the member's needs and develops a new plan to meet the member's needs. The provider agency nurse completes and submits the annual reassessment documents to the OHCA nurse no sooner than sixty (60) calendar days before the existing service plan end-date, and no later than fourteen (14) calendar days prior to service.

(5) When the member is unstaffed, the provider agency nurse or staff communicates with the member and makes efforts to re-staff. When consecutively unstaffed for seven (7) calendar days, or fewer depending on the member's needs, the provider agency nurse or staff contacts the unstaffed member weekly by phone to actively monitor the member's health and safety and documents ongoing efforts to provide staff using the electronic system. When the member is unstaffed for thirty (30) days, the provider agency notifies the OHCA nurse. The OHCA nurse contacts the member and when the member chooses, initiates a member transfer to another provider agency that can provide staff.

317:35-16-5. Agency State Plan Personal Care services; billing, and problem resolution

The ADvantage Administration (AA) certifies qualified personal care provider agencies and facilitates the execution of the agencies' SoonerCare (Medicaid) contracts on the Oklahoma Health Care Authority's (OHCA) behalf. OHCA checks the list of providers barred from Medicare/SoonerCare (Medicaid) participation to ensure that the personal care services agency is not listed.

(1) **Payment for State Plan Personal Care (SPPC).** Payment for SPPC services is made for care provided in the member's own home or in other limited living arrangement types, per

Oklahoma Administrative Code (OAC) 317:35-15-2(b) (1 through 4).

(A) **Provider agency use.** To provide SPPC services, an agency must be licensed by the Oklahoma State Department of Health, meets certification standards identified by Oklahoma Human Services (OKDHS), and possesses a current SoonerCare (Medicaid) contract.

(B) **Reimbursement.** SPPC services payment on a member's behalf is made according to the service type and number of authorized service units.

(i) The amount paid to provider agencies for each service unit is determined according to established SoonerCare (Medicaid) rates for the personal care services. Only authorized units contained in each eligible member's individual plan are eligible for reimbursement. Provider agencies serving more than one member residing in the same residence ensure the members' plans combine units in the most efficient manner to meet the needs of all eligible persons in the residence.

(ii) SPPC services payment is for tasks performed in accordance with the authorized care plan per OAC 317:30-5-951. Payment for personal care skilled nursing service is made on the member's behalf for assessment, evaluation, and associated service planning per nursing visit.

(iii) SPPC service time is documented through Electronic Visit Verification System (EVV), previously known as Interactive Voice Response Authentication (IVRA) system, when services are provided in the home.

(2) **Issue resolution.**

(A) The provider agency provides a written copy of their grievance process to each member at service commencement. The written grievance process includes the name and phone number of a provider agency contact person who is responsible for responding to such complaints and grievances. When the member is dissatisfied with the SPPC provider agency or the assigned PCA and has exhausted attempts to work with the agency's grievance process without resolution, the member is referred to the OHCA team to attempt to resolve the issue(s). The member has the right to appeal to OHCA per OAC 317:2-1-2.

(B) When a PCA performance issue is identified, provider agency staff conducts a counseling conference with the member or the PCA as appropriate. Provider agency staff counsels the PCA regarding problems with his or her performance.

(3) **Persons ineligible to serve as a PCA.** Payment from SoonerCare funds for SPPC services may not be made to an individual who is a legally responsible family member of the member, such as a spouse, legal guardian, or parent of a minor child, when he or she is providing SPPC services.

317:35-16-6. Financial eligibility redetermination for State Plan Personal Care

The OHCA nurse reviews the electronic system to confirm member eligibility before the end of the certification period. A notice is generated only if there is a change affecting the member's financial eligibility.

317:35-16-7. Medical eligibility redetermination for State Plan Personal Care (SPPC) services

(a) **Medical eligibility redetermination.** The OHCA nurse completes a medical redetermination

before the end of the SPPC certification period.

(b) **Recertification.** The OHCA nurse re-assesses the SPPC service members eighteen (18) years of age and older, for medical re-certification based on the member's needs and level of caregiver support required, using the Uniform Comprehensive Assessment Tool (UCAT) at least every thirty-six (36) months. Members younger than eighteen (18) years of age, are re-evaluated by the OHCA nurse using the UCAT on a twelve (12) month basis or sooner when needed. During this re-certification assessment, the OHCA nurse informs the member of the state's other SoonerCare (Medicaid) long-term care options. The OHCA nurse submits the re-assessment to the OHCA nurse for recertification. Documentation is sent to the OHCA nurse no later than the tenth (10^{th}) calendar day of the month certification expires. When the OHCA nurse determines medical eligibility for SPPC services, a recertification review date is entered on the system.

(c) **Change in amount of units or tasks.** When the SPPC provider agency determines a need for a change in the amount of units or tasks in the service, a care plan is completed and submitted to the OHCA nurse within five (5) business days of identifying the assessed need. The OHCA nurse approves or denies the change prior to implementation.

(d) **SPPC services voluntary closure.** When a SPPC member decides personal care services are no longer needed to meet his or her needs, a medical decision is not needed. The member is sent a Voluntary Withdrawal Request for confirmation and signature, and the request is entered into the electronic system upon receipt. A closure notification is submitted to the provider agency.

(e) **Resuming personal care services.** When a SPPC member approved for SPPC services is without services for less than ninety (90) calendar days, but the member has current medical and SoonerCare (Medicaid) financial eligibility approval, SPPC services may be resumed using the member's previously approved care plan. The personal care provider agency nurse contacts the member to determine when changes in health or service needs occurred. When changes are identified, the provider agency nurse completes an assessment visit and submits a SPPC services skilled nursing need re-assessment within ten (10) business days of the resumed plan start date. When the member's needs dictate, the personal care provider agency may submit a request for a change in authorized SPPC service units. When no changes occur, the OHCA agency nurse documents the contact in the electronic system for the OHCA ten (10) business days of the resumed plan start date.

(f) **Financial ineligibility.** When the OHCA nurse determines the member has lost SoonerCare eligibility, they notify the member of the determination and his or her right to appeal the decision in writing. A closure notification is also submitted to the provider agency.

(g) **Closure due to medical ineligibility.** When the OHCA determines a member to be medically ineligible for SPPC services, they notify the member of the determination, and his or her right to appeal the decision, in writing. When medical eligibility redetermination is not made prior to current medical eligibility expiration, the existing medical eligibility certification is automatically extended until care level redetermination is established. For members:

(1) Who are not hospitalized or in an extended medical care facility, the existing medical eligibility certification is extended for a maximum sixty (60) calendar days from the date of the previous medical eligibility expiration date;

(2) Who are hospitalized or in an extended medical care facility, the existing medical eligibility certification is extended for thirty (30) calendar days from the date of discharge from the facility or for sixty (60) calendar days from the date of previous medical eligibility expiration date, whichever is longer;

(3) Whose medical eligibility redetermination is not made by applicable extended deadline, the member is determined to be medically ineligible; or

(4) Who no longer meet medical eligibility or cannot be located to complete the redetermination assessment, the OHCA nurse notifies the OHCA personal care supervisor. The OHCA personal care supervisor updates the system's medical eligibility end date and notifies the OHCA nurse of effective end date. A closure notification is submitted to the provider agency.

(h) **State Plan Personal Care services termination.**

(1) State Plan Personal Care (SPPC) services may be discontinued when:

(A) Professional documentation supports the member poses a threat to self or others;

(B) Other household members or persons who routinely visit the household who, as professional or credible documentation supports, pose a threat to the member or other household visitors;

(C) The member or the other household members use threatening, intimidating, degrading, or sexually inappropriate language or innuendo or behavior towards service providers, either in the home or through other contact or communications. Efforts to correct such behavior are unsuccessful as professional or credible documentation supports;

(D) The member or family member fails to cooperate with SPPC service delivery or to comply with Oklahoma Health Care Authority (OHCA) or OKDHS rules as professional or credible documentation supports;

(E) The member's health or safety is at risk as professional or credible documentation supports;

(F) Additional services, either "formal" such as, paid by Sooner Care (Medicaid) or some other funding source or "informal" such as, unpaid are provided in the home. This eliminates the need for SoonerCare SPPC services;

(G) The member's living environment poses a physical threat to self or others as professional or credible documentation supports, and measures to correct hazardous conditions or assist the person to move are unsuccessful or are not feasible; or

(H) The member refuses to select or accept a provider agency or Personal Care Assistant (PCA) service for ninety (90) consecutive days as professional or credible documentation supports.

(2) For members receiving SPPC services, the provider agency submits documentation with the recommendation to discontinue services to the OHCA. The OHCA nurse reviews the documentation and submits it to the OHCA personal care supervisor for determination. The personal care provider agency or PCA is notified of the decision to terminate services via the electronic system. The member is sent an official closure notice informing him or her of appropriate member rights to appeal the decision to discontinue services.

317:35-16-8. Case changes

(a) Any time there are changes affecting the State Plan Personal Care case eligibility, computer generated notices are issued.

(b) A member has the right to withdraw their request for SPPC services at any time during the process, but if the member is determined to meet eligibility under another aid category based on information available to the agency during this time (as referenced under 317:35-6-60.1), we are

required to take action on this regardless of the withdrawal of the request for SPPC services.

317:35-16-9. Billing procedures for State Plan Personal Care

Billing procedures for State Plan Personal Care (SPPC) services are contained in the Oklahoma Medicaid Management Information Systems (OKMMIS) Billing and Procedure Manual. Questions regarding billing procedures that cannot be resolved through studying the manual are referred to the Oklahoma Health Care Authority (OHCA). SPPC contractors bill on CMS-1500 claim form. The contracted provider submits a claim for each member. The contracted provider prepares claims for services provided and submits the claims to the fiscal agent responsible for ensuring claims are properly completed. All personal care contractors must have a unique provider number. New contracted providers are mailed the provider number after being placed on the claims processing contractor's provider file. All services provided in the member's home, including Personal Care and Nursing, and all work completed in the provider's office, are documented through the Electronic Visit Verification (EVV) system. The EVV system provides alternate backup solutions if the automated system is unavailable; however, in the event of an EVV system failure, the provider documents time in accordance with internal provider agency policy and procedures backup plan. This documentation is sufficient to account for both in-home and in-office services. The provider agency's backup procedures are only permitted when the EVV system is unavailable.

317:35-16-10. Social services referral

In many situations, members receiving medical services through SoonerCare (Medicaid) need social services. If a member, who is eligible for State Plan Personal Care Services through this Subchapter, has a need for social services, the OHCA will process those necessary referrals.