

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: February 6, 2025

The proposed policy is an Emergency Rule. The proposed policy change was presented at the November 5, 2024 Tribal Consultation. Additionally, this proposal is scheduled to be presented to the Medical Advisory Committee on March 6, 2025 and the OHCA Board of Directors on March 19, 2025.

Reference: APA WF # 25-03

SUMMARY: SoonerSelect Rule Revision — The Oklahoma Health Care Authority is proposing an emergency rule revision to align with the State's SoonerSelect 1915(b) waiver amendment. These proposed changes clarify that members receiving only family planning services through Soonerplan are excluded from mandatory and voluntary managed care enrollment in the SoonerSelect program. Additionally, the choice period for SoonerSelect enrollees will be changed from 60 days to 30 days. The choice period is the timeframe during which a SoonerSelect enrollee may select a plan. If a selection is not made during this timeframe, the enrollee will be automatically assigned to one of the contracted entities.

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's 1915(b) Managed Care Waiver

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA OKLAHOMA HEALTH CARE AUTHORITY

SUBJECT: Rule Impact Statement
APA WF # 25-03

A. Brief description of the purpose of the rule:

Proposed emergency revision will align rules with the state's approved 1915(b) Managed Care waiver amendment. Revisions include a change to clarify that members receiving only family planning services are excluded from SoonerSelect, and an amendment to shorten the auto assignment delay, and streamline the auto assignment methodology.

- 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:

The proposed rule changes will not affect any classes of persons.

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

The proposed rule changes will benefit SoonerSelect members by streamlining the auto enrollment process.

- 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 probable economic impact and there are no fee changes associated with the rule change for the above classes of persons or any political subdivisions.

- 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 affect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency:

The estimated total cost is expected to be budget neutral.

- 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 changes will not have an economic impact on any political subdivision or require their cooperation in implementing or enforcing the rule changes.

- 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 agency does not anticipate that the proposed rule changes will have an adverse effect on small businesses.

- 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 are no other legal methods to achieve the purpose of the proposed rule. Measures included a formal public comment period and tribal consultation.

- 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 should have no adverse effect on the public health, safety or environment.

- 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 and safety if the proposed rule is not passed.

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

Prepared date: November 27, 2024

Revised date: January 22, 2025

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY

CHAPTER 55. MANAGED CARE

SUBCHAPTER 3. GENERAL PROGRAM INFORMATION

317:55-3-1. Mandatory, voluntary, and excluded populations

(a) **Mandatory populations.** The following SoonerCare Eligibles will be mandatorily enrolled with a CE and DBM under the SoonerSelect Dental and Medical program:

- (1) Expansion adults;
- (2) Parents and caretaker relatives;
- (3) Pregnant women;
- (4) Deemed newborns;
- (5) Former foster children;
- (6) Juvenile justice involved children;
- (7) Foster care children;
- (8) Children receiving adoption assistance; and
- (9) Children.

(b) **Voluntary populations.** SoonerCare Eligible individuals may voluntarily choose to enroll in the SoonerSelect Dental and Medical program through an opt-in process if they are American Indians and/or Alaskan Natives. AI/AN populations will have the option to:

- (1) Voluntarily enroll in the DBM and/or CE through an opt-in process;
- (2) Enroll in a DBM and/or CE at each open enrollment period, regardless of initial selection or past disenrollment from the DBM and/or CE;
- (3) When enrolled, AI/AN populations may:
 - (A) Receive services from an IHCP;
 - (B) Choose the IHCP as the Enrollee's provider, if the provider has the capacity to provide such services;

- (C) Obtain services covered under the Contract from out-of-network IHCPs when the Enrollee is otherwise Eligible to receive the IHCP's services;
- (D) Self-refer for services provided by IHCPs to AI/AN Enrollees;
- (E) Obtain services covered under the Contract from out-of-network IHCPs when the AI/AN Enrollee is otherwise Eligible to receive the IHCP's services; and
- (F) Disenroll from any DBM and/or CE at any time without cause.

(c) **Excluded populations.** The following individuals are excluded from enrollment in the SoonerSelect program:

- (1) Dual-eligible individuals;
- (2) Individuals enrolled in the Medicare Savings Program, including Qualified Medicare Beneficiaries (QMB), Specified Low Income Medicare Beneficiaries (SLMB), Qualified Disabled Workers (QDW) and Qualified Individuals (QI);
- (3) Persons with a nursing facility or ICF-IID level of care, except for Enrollees with a pending level of care determination;
- (4) Individuals during a period of presumptive eligibility;
- (5) Individuals infected with tuberculosis Eligible for tuberculosis-related services under 42 C.F.R. § 435.215;
- (6) Individuals determined Eligible for SoonerCare on the basis of needing treatment for breast or cervical cancer under 42 C.F.R. § 435.213;
- (7) Individuals enrolled in a § 1915(c) Waiver;
- (8) Undocumented persons Eligible for emergency services only in accordance with 42 C.F.R. § 435.139;
- (9) Insure Oklahoma Employee Sponsored Insurance (ESI) dependent children in accordance with the Oklahoma Medicaid State Plan;
- (10) Coverage of Pregnancy-Related Services under Title XXI for the benefit of unborn children ('Soon- to-be-Sooners'), as allowed by 42 C.F.R. § 457.10; and
- (11) Individuals determined Eligible for Medicaid on the basis of age, blindness, or disability.
- (12) Individuals enrolled in the SoonerPlan family planning program.

(d) **Additional eligibility criteria.** For additional eligibility criteria, refer to Chapter 35 Medical Assistance for Adults and Children Eligibility Manual, Subchapter 5 Eligibility and Countable Income.

317:55-3-2. Enrollment and disenrollment process

(a) **Enrollment process.** The OHCA beneficiary support system will provide choice counseling to all potential Enrollees at the time of initial enrollment, during the annual open enrollment period and for Enrollees who disenroll from a CE or DBM for good cause as described in the Contract and in this Section. The OHCA, or its designee, will provide information about individual CE or DBM benefit structures, services, and network providers, as well as information about other Medicaid programs as requested by the Eligible to assist the Eligible in making an informed selection.

- (1) **Selection/auto assignment.** During the application process, at OHCA's discretion, an Applicant may have up to thirty (30)~~sixty (60)~~ days to select a contracted CE and DBM of their choice. Applicants who are Eligible to choose a CE and DBM and fail to

make an election on the SoonerCare application, within the allotted timeframe, will be assigned to the CE and DBM that is due next to receive an auto assignment.

(2) Exemptions to auto-assignments

- (A) The OHCA will not make auto-assignments to the CE if:
 - (i) The CE's maximum enrollment has been capped and actual enrollment has reached ninety-five percent (95%) of the cap;
 - (ii) The CE has been excluded from receiving new enrollment due to the application of non-compliance remedies; or
 - (iii) The CE has failed to meet readiness review requirements.
- (B) The OHCA will not make auto-assignments to the DBM if:
 - (i) The DBM's maximum enrollment has been capped and actual enrollment has reached ninety-five percent (95%) of the cap;
 - (ii) The DBM has been excluded from receiving new enrollment due to the imposition of administrative remedies; or
 - (iii) The DBM has failed to meet readiness review requirements.

(3) Enrollment effective date

- (A) Eligibles, with the exception of deemed newborns, who select or are assigned to a CE and/or DBM from the first day of the month through the fifteenth day of the month shall be enrolled effective on the first day of the following month.
- (B) Eligibles who select or are assigned to a CE and/or DBM on the sixteenth (16th) day of the month through the last day of the month will be enrolled effective on the first day of the second following month.
- (C) Prior to these enrollment dates, most Eligibles will be covered by a fee-for-service payment structure administered by OHCA.
- (D) Deemed newborns eligible for the CE and/or DBM shall be enrolled effective as of the date of birth, if the newborn's mother also is enrolled in the SoonerSelect program.
- (E) Notwithstanding the foregoing, the effective date of enrollment with the CE or DBM shall be the date recorded on the outbound ANSI ASC X 12 834 electronic transaction sent by OHCA.

(4) Enrollment lock-in period. An Enrollee may, within the first ninety (90) days of initial enrollment, request to change enrollment without cause from the CE and/or DBM, or during the ninety (90) days following the date OHCA sends the Enrollee notice of initial enrollment, whichever is later. Enrollees will also be permitted to change CEs and/or DBMs, without cause, at least once every twelve (12) months during the open enrollment period. After the disenrollment period from the CE or DBM has lapsed, the Enrollee will remain enrolled with the CE or DBM until the next annual open enrollment period, unless:

- (A) The SoonerSelect Medical Enrollee:
 - (i) Is disenrolled due to loss of SoonerCare eligibility;
 - (ii) Becomes a foster child under custody of the state;
 - (iii) Becomes juvenile justice involved under the custody of the state;
 - (iv) Is a former foster care or child receiving adoption assistance and opts to enroll in the SoonerSelect Children's Specialty program;
 - (v) Demonstrates good cause under the following conditions:

- (I) The Enrollee moves out of the service area;
- (II) The Enrollee requires specialized care for a chronic condition and the Enrollee or Enrollee's representative, the CE, OHCA and receiving CE agree that assignment to the receiving CE is in the Enrollee's best interest;
- (III) The plan does not cover the service the Enrollee seeks, because of moral or religious objections;
- (IV) The Enrollee needs related services to be performed at the same time; not all related services are available within the CE's network; and the Enrollee's primary care provider or another provider determines that receiving the services separately would subject the Enrollee to unnecessary risk;
- (V) For other reasons, including a filed and prevailed grievance related to poor quality of care, lack of access to services covered under the Contract, or lack of access to providers experienced in dealing with the Enrollee's oral health care needs or other matters deemed sufficient to warrant disenrollment; and
- (VI) The Enrollee has been enrolled in error, as determined by the OHCA.

- (vi) Experiences a temporary loss of eligibility or enrollment which caused the Enrollee to miss the annual disenrollment period, then the Enrollee may disenroll without cause upon reenrollment; or
- (vii) The OHCA has imposed intermediate sanctions on the CE and allows Enrollees to disenroll without cause.

(B) The SoonerSelect Dental Enrollee:

- (i) Is disenrolled due to loss of SoonerCare eligibility;
- (ii) Demonstrates good cause under the following conditions:
 - (I) The Enrollee moves out of the service area;
 - (II) The plan does not cover the service the Enrollee seeks, because of moral or religious objections;
 - (III) The Enrollee needs related services to be performed at the same time; not all related services are available within the DBM's network; and the Enrollee's primary care dental provider or another provider determines that receiving the services separately would subject the Enrollee to unnecessary risk;
 - (IV) For other reasons, including a filed and prevailed grievance related to poor quality of care, lack of access to services covered under the Contract, or lack of access to providers experienced in dealing with the Enrollee's oral health care needs or other matters deemed sufficient to warrant disenrollment; and
 - (V) The Enrollee has been enrolled in error, as determined by the OHCA.

- (iii) Experiences a temporary loss of eligibility or enrollment which caused the Enrollee to miss the annual disenrollment period, then the Enrollee may disenroll without cause upon reenrollment; or
- (iv) The DBM is terminated.

(5) **Annual and special enrollment periods.** Sixty (60) days prior to the start of the Enrollee's annual open enrollment period, the Enrollee shall be notified of the option to maintain enrollment with the current CE and/or DBM or to enroll with a different CE and/or DBM. OHCA, at its sole discretion, may schedule a special open enrollment period, under the following circumstances:

(A) In the event of the early termination of a CE or DBM under the process described in the Contract; or

(B) The loss of a major participating provider(s) places the CE or DBM at risk of failing to meet service accessibility standards and the CE or DBM does not have an acceptable plan for mitigating the loss or finding of non-compliance.

(6) **Enrollment caps.** OHCA, at its sole discretion, may impose a cap on the CE or DBM's enrollment, in response to a request by the CE or DBM or as part of a corrective action in accordance to the respective Contract.

(b) **Disenrollment.** The OHCA shall have sole authority to grant or deny a disenrollment request from the Enrollee, and/or CE or DBM.

(1) **CE or DBM-requested disenrollment.** Pursuant to 42 C.F.R. § 438.56(b)(2), the CE or DBM cannot request a disenrollment based on adverse change in the member's health status or utilization of medically necessary services, diminished mental capacity, or uncooperative or disruptive behavior resulting from their special needs, except when their continued Enrollment with the Contractor seriously impairs the Contractor's ability to furnish services to either this particular Enrollee or other Enrollees.

(A) The CE may only request disenrollment of the Enrollee only for good cause. The following actions, if found by OHCA, comprise good cause:

(i) The Enrollee requires specialized care for a chronic condition and the Enrollee or Enrollee's representative, the CE, OHCA and receiving CE agree that assignment to the receiving CE is in the Enrollee's best interest;

(ii) The Enrollee has been enrolled in error, as determined by OHCA;

(iii) The Enrollee has exhibited disruptive behaviors to the extent the CE cannot effectively manage their care, and the CE has made all reasonable efforts to accommodate the Enrollee; or

(iv) The Enrollee has committed fraud, including but not limited to, loaning an identification (ID) card for use by another person.

(B) The DBM may only request disenrollment of the Enrollee only for good cause. The following actions, if found by OHCA, comprise good cause:

(i) The Enrollee has been enrolled in error, as determined by OHCA;

(ii) The Enrollee has exhibited disruptive behaviors to the extent the DBM cannot effectively manage their care, and the DBM has made all reasonable efforts to accommodate the Enrollee; or

(iii) The Enrollee has committed fraud, including but not limited to, loaning an ID card for use by another person.

(2) **Enrollee-requested disenrollment.** Enrollees shall seek redress through the CE's or DBM's grievance process before OHCA will make a determination on an Enrollee's request for disenrollment. The CE or DBM shall accept Enrollee requests for disenrollment orally or in writing. The CE or DBM shall complete a review of the request within ten (10) days of the Enrollee filing the grievance. If

the Enrollee remains dissatisfied with the result of the grievance process, the CE or DBM shall refer the disenrollment request to OHCA. The Contractor shall send records gathered during the grievance process to OHCA to facilitate OHCA's decision-making process. Disenrollment requests will be adjudicated by OHCA and, if approved, will become effective on a date established by OHCA.

(A) The Enrollee may request disenrollment from the CE or DBM as allowed by 42 C.F.R. § 438.56(c).

(B) An Enrollee may request disenrollment from the CE or DBM at any time based on any cause listed at 42 C.F.R. § 438.56(d)(2).

(C) An Enrollee may request disenrollment at any time in accordance with (a)(4)(A)(v)(I)-(VI) and (B)(ii)(I)-(V) of this Section and the applicable Contract.

(3) **Disenrollment by OHCA.** The CE or DBM shall report to OHCA, within five (5) business days of learning of any change in an Enrollee's status affecting the Enrollee's eligibility.

(A) The OHCA will initiate disenrollment of SoonerSelect Medical Enrollees under the following circumstances:

- (i) Loss of eligibility for Medicaid;
- (ii) Transition to a SoonerCare eligibility group excluded from the SoonerSelect Medical program;
- (iii) Enrollee becomes enrolled in Medicare;
- (iv) Death;
- (v) Enrollee becomes a foster child under the custody of the state;
- (vi) Enrollee becomes juvenile justice involved under the custody of the state;
- (vii) The Enrollee becomes an inmate of a public institution;
- (viii) The Enrollee commits fraud or provides fraudulent information; or
- (ix) Disenrollment is ordered by a hearing officer or court of law.

(B) The OHCA will initiate disenrollment of SoonerSelect Dental Enrollees under the following circumstances:

- (i) Loss of eligibility for Medicaid;
- (ii) Transition to a SoonerCare eligibility group excluded from the SoonerSelect Dental program;
- (iii) Enrollee becomes enrolled in Medicare;
- (iv) Death;
- (v) The Enrollee becomes an inmate of a public institution;
- (vi) The Enrollee commits fraud or provides fraudulent information; or
- (vii) Disenrollment is ordered by a hearing officer or court of law.

(4) **Disenrollment effective date.** Consistent with 42 C.F.R. § 438.56(e), except as provided for below, and unless OHCA determines that a delay would have an adverse effect on an Enrollee's health, it is OHCA's intent that a disenrollment shall be effective no later than the first day of the second following month.

(A) Grievance resolution for poor quality of care, lack of access to services covered under the Contract or lack of access to providers experienced in dealing with the Enrollee's health care needs or other matters deemed sufficient to warrant disenrollment under (b)(2) of this Section must be completed within this timeframe. If the CE fails to complete the grievance process in time to permit disenrollment by OHCA, the disenrollment shall be considered approved for the effective date that would have been established had the CE complied with this timeframe. Disenrollment for any of the following reasons shall be effective as of the date that the Enrollee's SoonerSelect Medical program eligibility status changes:

- (i) Loss of eligibility for Medicaid;
- (ii) Transition to a SoonerCare eligibility group excluded from the SoonerSelect program;
- (iii) Enrollee becomes a foster child under the custody of the state;
- (iv) Enrollee becomes JJ Involved under the custody of the state;
- (v) Enrollee becomes eligible for Medicare;
- (vi) Death;
- (vii) Enrollee becomes an inmate of a public institution;
- (viii) Enrollee commits fraud or provides fraudulent information;
- (ix) Disenrollment is ordered by a hearing officer or court of law;
- or
- (x) Enrollee requiring long-term care.

(I) Enrollees requiring long-term care in a nursing facility or ICF-IID shall be disenrolled from the CE when the level of care determination is finalized.

(II) For additional information regarding nursing facility and ICF-IID stays, refer to the Contract.

(B) Grievance resolution for poor quality of care, lack of access to services covered under the Contract or lack of access to providers experienced in dealing with the SoonerSelect Dental Enrollee's oral health care needs, or other matters deemed sufficient to warrant disenrollment under (b)(2) of this Section must be completed within this timeframe. If the Contractor fails to complete the grievance process in time to permit disenrollment by OHCA, the disenrollment shall be considered approved for the effective date that would have been established had the Contractor complied with this timeframe. Disenrollment for any of the following reasons shall be effective as of the date that the SoonerSelect Dental Enrollee's SoonerSelect Dental program eligibility status changes:

- (i) Loss of eligibility for Medicaid;
- (ii) Transition to a SoonerCare eligibility group excluded from the SoonerSelect Dental program;
- (iii) SoonerSelect Dental Enrollee becomes eligible for Medicare;
- (iv) Death;

- (v) SoonerSelect Dental Enrollee becomes an inmate of a public institution;
- (vi) SoonerSelect Dental Enrollee commits Fraud or provides fraudulent information;
- (vii) Disenrollment is ordered by a hearing officer or court of law; or
- (viii) SoonerSelect Dental Enrollees requiring long-term care in a nursing facility or ICF-IID shall be disenrolled from the Contractor when the level of care determination being done by the SoonerSelect or SoonerSelect Children's Specialty CEs is complete.

(C) Notwithstanding the foregoing, the effective date of disenrollment from the Contractor shall be the date recorded on the outbound ANSI ASC X 12 834 electronic transaction sent by OHCA.

(c) **Retroactive dual eligibility.** Dual eligibles are excluded from the SoonerSelect program. SoonerSelect Enrollees who become dual eligible individuals will be disenrolled as of their Medicare eligibility effective date.

(1) In the event a SoonerSelect Enrollee becomes retroactively Medicare eligible, the CE or DBM shall recover claims payments made to providers during the months of retroactive Medicare eligibility.

(2) The CE or DBM shall also notify the provider of the requirement to submit the claim to Medicare for reimbursement.

(3) OHCA will recoup the capitation payments paid for months of retroactive Medicare eligibility.

(d) **Re-enrollment following loss of eligibility.** Enrollees who lose and regain eligibility for SoonerSelect Medical or Dental program within a period of sixty (60) days or less will be re-enrolled automatically with their prior CE and/or DBM unless the CE and/or DBM is otherwise suspended or excluded from receiving new Enrollees. Re-enrolled Enrollees will have the right to change CE/DBM in accordance with this Section and the Contract.

(e) **Eligibles voluntarily opting out of SoonerSelect Children's Specialty Program.** FFC and children receiving adoption assistance shall be enrolled in the SoonerSelect Children's Specialty Program. These Eligibles may opt-out of enrollment in the Children's Specialty Program; however, the legal guardian of the Eligible will be required to enroll the Eligible with a CE.

(f) **Non-discrimination.** The CE or DBM may not refuse an assignment or seek to disenroll an Enrollee or otherwise discriminate against Eligible to enroll on the basis of race, color, national origin, sex, sexual orientation, gender identity, health status, need for medical services, or disability and may not use any policy or practice that has the effect of discriminating on the basis of race, color or national origin, sex, sexual orientation, gender identity, or disability. The Contractor also may not discriminate against an Enrollee on the basis of expectations that the Enrollee will require frequent or high-cost care, or on the basis of health status or need for health care services or due to an adverse change in the Enrollee's health in enrollment, disenrollment, or re-enrollment. If the CE or DBM fails to comply with OAC 317:55-3-2, the OHCA may impose any or all the CE intermediate sanctions, found at OAC 317:55-5-10 and the CE Contract, or DBM administrative remedies, found at OAC 317:55-5-11 and the DBM Contract.

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