



STATE OF OKLAHOMA  
OKLAHOMA HEALTH CARE AUTHORITY

I/T/U Public Notice 2019-08

October 23, 2019

**RE: Oklahoma Health Care Authority (OHCA) Proposed Rule, State Plan, and Waiver Amendments**

Dear Tribal Representative:

The purpose of this letter is to give you notice of proposed changes that will be reviewed at the tribal consultation meeting on November 5, 2019 at 11 a.m. in the Oklahoma Health Care Authority's (OHCA) Charles Ed McFall Boardroom located at 4345 N Lincoln, Oklahoma City, OK. The OHCA invites you to attend this meeting and we welcome any comments regarding the proposed changes. The agency is committed to active communication with tribal governments during the decision-making and priority-setting process to keep you apprised of all proposed changes.

Enclosed are summaries of the current proposed rules, state plan, and waiver amendments for your review, the summaries describe the purpose of each change.

Please note that these are only proposed changes and have not yet taken effect. Before implementation, new changes must obtain budget authorization and approval by the OHCA Board, and when applicable, federal approval and Governor approval must be obtained.

Additionally, the OHCA posts all proposed changes on the agency's [Policy Change Blog](#) and the [Native American Consultation Page](#). These public websites are designed to give all constituents and stakeholders an opportunity to review and make comments regarding upcoming policy changes. To ensure that you stay informed of proposed policy changes, you may sign up for web alerts to be automatically notified when any new proposed policy changes are posted for comment.

The OHCA values consultation with tribal governments and will provide your representatives a reasonable amount of time to respond to this notification. If you have any questions or comments about the proposed policy changes, please use the online comment system found on the [Policy Change Blog](#) and/or the [Native American Consultation Page](#).

Sincerely,

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Dana Miller  
Director, Tribal Government Relations

## **Proposed Rule, State Plan, and Waiver Amendments**

**Maintenance Drug List Update (14-day EXPEDITED)** — The proposed revisions will update policy and State Plan language to allow more flexibility in the amount of prescription quantities that members can receive per claim. Currently, prescription quantities are limited to a 34-day supply, unless the prescription is on the maintenance drug list, then it allows for 100-dosage units. The proposed revisions seek to amend the limitation and when the prescription is on the maintenance drug list to allow for a 90-day supply.

**Prescription Drug Limit Exceptions (14-day EXPEDITED)** — The proposed revisions outline exceptions to the prescription drug limitation to include certain drugs that require frequent monitoring, naloxone, contraceptives, prenatal vitamins, and tobacco cessation products. The proposed revisions will align the State Plan with agency policy.

**Registered Behavior Technicians (RBT) (14-day EXPEDITED)** — The proposed revisions will establish RBTs as a new provider type to implement Board Certified Behavior Analyst's (BCBA) behavior treatment plans for Applied Behavior Analysis (ABA) services. Additionally, the proposed revisions will establish RBT provider requirements and reimbursement.

**Treatment of Lottery and/or Gambling Winnings for Income Eligibility** — The Advancing Chronic Care, Extenders and Social Services Act (ACCESS Act) and Public Law No. 115-123 § 53103, changed the way qualified lottery winnings or qualified gambling winnings of \$80,000 and above, which are paid out in a single payout option, are treated when determining MAGI-based income eligibility. Winnings will still be counted as income for the SoonerCare household in the month received. However, winnings of \$80,000 and above, which are paid out in a single payout, will be counted throughout multiple months and in equal monthly installments for the individual household member receiving the winnings. Lottery winnings that are paid out in installments will be treated as recurring income. The formula for counting winnings of \$80,000 and above will be set forth within the proposed policy.

**Claim Inquiry Policy Update** — The proposed policy revisions are necessary due to a new streamlined electronic process developed by OHCA for providers. The revisions will outline how providers can request a review of claims submitted and how to submit supporting documentation for their request through the OHCA provider portal. The electronic review process will replace the previous manual process of submitting paper forms and documentation to a post office box.

**Expedited Appeals** — The proposed revisions will add language to specify that requests for expedited appeal hearings should be sent to the Administrative Law Judge (ALJ) with a copy sent to the OHCA. Additionally, the appeal hearing request shall specify the services denied and the specific reason(s) why a regular 30-day appeal will seriously jeopardize the life or health of the member requesting an expedited appeal hearing.

**Free-Standing Birthing Centers** — The policy for free-standing birthing centers is being revoked as this type of provider no longer exists in Oklahoma.

**The Oklahoma Office of Juvenile Affairs (OJA) Targeted Case Management (TCM) Services** — The proposed revisions will increase the maximum eligible age for individuals who are involved in or at serious risk of involvement with the juvenile justice system and who are eligible for TCM services from eighteen (18) to under twenty-one (21). Additionally, the proposed revisions will update reimbursement

methodology language for TCM and align case management services with current evidence-based practice.

**Nursing Licensure Revisions** — The proposed revisions will comply with Oklahoma House Bill (HB) 2351, which allows Oklahoma to enter into the enhanced Nurse Licensure Compact (eNLC). The eNLC is an agreement between states that allows a nurse's licensure to be portable to other member-states of the Compact. These revisions amend references that narrowly tie a nurse's license to the Oklahoma Board of Nursing and align SoonerCare rules and the State Plan with the eNLC.

**Inpatient Psychiatric Services Revisions** — The proposed revisions will amend inpatient psychiatric services policy for members under twenty-one (21) years of age to reflect current practice, update obsolete references, and reorganize sections for consistent application of policy. Further revisions will clarify levels of care such as Acute, Acute II, and Psychiatric Residential Treatment Facility (PRTF).

**Developmental Disabilities Services Division (DDS)** — The proposed revisions to the DDS policy will allow for self-directed services to be an option under the Community waiver. Revisions will also add language to note the daily hourly limits on services provided by the self-directed habilitation training specialist. Other revisions establish guidelines for the DDS Home and Community-Based Services waiver's Electronic Visit Verification (EVV) billing procedures.

**ADvantage Waiver** — The proposed revisions to the ADvantage waiver will add new language addressing State Plan personal care eligibility provider exception criteria. Revisions will also update existing policy that will clarify the criteria an applicant must meet to receive ADvantage services and the type of living arrangements that are not eligible for ADvantage members.

**Indian Health Services, Tribal Programs, and Urban Indian Clinics (I/T/Us) Obstetrical (OB) Services** — The proposed revisions will clarify how I/T/U OB providers should bill for OB care. I/T/Us have the option of either billing for OB encounters or a bundled rate for total OB care. The clarification will require I/T/Us to be specific when choosing a billing method as they are only allowed to choose one of the billing methods. Finally, the proposed changes will establish new service limitations and requirements for OB services.

**Programs of All-Inclusive Care for the Elderly (PACE)** — The proposed revisions will bring the OHCA into compliance with Senate Bill (SB) 888 and other federal regulations by adding language to clarify the PACE participant enrollment and voluntary disenrollment process and criteria. Revisions will also add language to allow PACE providers to either be a non-profit or for-profit entity to align with the Social Security Act sections 1894(a)(3)(B) and 1934(a)(3)(B).

**Reasonable Limits on Amounts for Necessary Medical or Remedial Care Not Covered under Medicaid** — Revisions will establish exclusions of and/or requirements on the amount of medical expenses that can be deducted from the post-eligibility income of individuals who are institutionalized in nursing facilities or receiving home or community-based services under a 1915 waiver, pursuant to federal regulation.

**Mobile and Portable Dental Treatment Facilities** — The proposed revisions will add coverage and reimbursement for preventive dental services received through mobile and portable dental treatment facilities. Revisions will also add provider participation requirements pursuant to the Oklahoma State Dentistry Act and the OHCA contracting requirements; coverage and limitations for preventive dental services; billing requirements; basic consent form requirements; and follow-up care requirements.

**Title XXI Parity Compliance** — The proposed revisions will amend policy to remove the two (2) visit limitation for pregnant women covered under the Title XXI State Plan. The revisions are needed to comply with Parity federal regulations which instruct the State to provide equivalent services to all children covered under the Plan.

**Nursing Home Supplemental Payment Program Revocation** — The proposed revocation of rules will remove rule sections that were created for the nursing home supplemental payment program, a program that was never implemented; the Centers for Medicaid and Medicaid Services (CMS) did not ultimately approve the proposal.

**High-Investment Drug Carve-Out** — The proposed revisions will allow high-investment drugs to be “carved-out” of hospital inpatient and outpatient claims as a separate payment. Revisions will allow for reimbursement of high-investment drug therapies outside of the diagnosis-related group (DRG) payment to inpatient hospitals and outline outpatient hospital payment methodologies.

**Defunding Statutory Rape Cover-Up Act** — The proposed new rule is needed to comply with House Bill (HB) 2591 which creates the Defunding Statutory Rape Cover-Up Act. The new law requires the OHCA to deny an application for a new or renewed provider agreement, or terminate an existing agreement, if a provider is investigated and found by a court to have failed to report statutory rape. The new rule outlines how an individual can report a complaint and the actions OHCA can take if the complaint has been found valid.

**Patient-Centered Medical Homes (PCMH) Redesign, Health Access Networks (HAN) and Health Management Program (HMP) Updates** — The proposed revisions to the 1115(a) waiver, rules, and the Medicaid State Plan establish new provider requirements as well as a new care coordination payment structure for Patient-Centered Medical Homes (PCMH). For I/T/Us, the proposed revisions will create a new care coordination monthly payment of \$10 per member per month. Additionally, the Insure Oklahoma (IO) Individual Plan (IP) will be modified to incorporate the new PCMH structure and care coordination payments. Further revisions update the Health Access Networks (HAN) policy and add a new subsection of policy to address the Health Management Program (HMP). Currently, the OHCA is working with stakeholders on additional recommendations and plans to have proposed changes implemented by October 2020. All proposed changes are contingent upon approval and funding from the Centers for Medicare and Medicaid Services (CMS).

**OHCA is currently awaiting a final approval from CMS to contract with the statewide EVV aggregator.** To comply with the 21<sup>st</sup> Century Cures Act which requires providers of personal care and home health care services to utilize a system under which visits conducted are electronically verified must be implemented by January 1, 2020. OHCA recently applied for the Good Faith Effort extension to allow the state additional time for training and implementation across the six 1915(c) Home and Community Based Waiver programs, Living Choice and State Plan Personal Care. OHCA is seeking a March 2020 implementation date.