

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: March 3, 2022

Several of the proposed policy changes are currently in effect as an Emergency Rule. The proposed policy, currently in effect, was presented at the June 8, 2021 Tribal Consultation. Additionally, this proposal was presented to the Medical Advisory Committee (MAC) on September 9, 2021 and the OHCA Board of Directors on November 17, 2021. For the permanent rulemaking process, this proposal will be presented at a Public Hearing scheduled for March 8, 2022. Finally, all changes will be presented to the OHCA Board of Directors on March 16, 2022.

Reference: APA WF # 21-20

SUMMARY:

Alternative Treatments for Pain Management — The proposed revisions will establish coverage for chiropractor services and physical therapy services as a nonpharmacologic alternative for the treatment of spinal pain in SoonerCare adult members.

LEGAL AUTHORITY

The Oklahoma Health Care Authority Act, Section 5007 of Title 63 of Oklahoma Statutes; the Oklahoma Health Care Authority Board; Oklahoma Senate Bill 1046

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA OKLAHOMA HEALTH CARE AUTHORITY

SUBJECT: Rule Impact Statement
APA WF # 21-20

A. Brief description of the purpose of the rule:

The proposed revisions will establish coverage for chiropractor services and physical therapy services as a nonpharmacologic alternative for the treatment of spinal pain in SoonerCare adult members. The proposed additions will define provider participation and credentialing requirements, medical necessity, as well as coverage and service limitation guidelines. Furthermore, the proposed additions will state that reimbursement is established within the State Plan. Finally, revisions will involve minor cleanup to fix grammatical and formatting errors and add references to the new sections.

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:

SoonerCare adult members who utilize alternative treatment for pain management services will be positively affected by the proposed rule changes.

Additionally, providers will also be affected by the proposed rule changes.

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

The proposed rule changes to add coverage for alternative treatment for pain management services will benefit SoonerCare adult members by allowing access to certain benefits that were not previously provided.

Additionally, the proposed rule changes will benefit providers by allowing reimbursement for the delivery of the newly added services to SoonerCare adult members.

- 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 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 SFY2022, will be an increase in the total amount of \$13,152,504; with \$4,228,530 in state share. The estimated budget impact, for SFY2023 will be an increase in the total amount of \$26,305,009; with \$8,457,060 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 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 proposed rule is not expected to have an adverse effect on small business.

- 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. 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, and environment.

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

The Agency anticipates that in the absence of these rule changes it will hinder SoonerCare adult members from receiving alternative treatments for pain management, which aim to reduce the number of pain medications that are prescribed to members.

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

Prepared: December 21, 2021

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 27. INDEPENDENT PHYSICAL THERAPISTS AND PHYSICAL THERAPISTS ASSISTANTS

317:30-5-291. Coverage by category

Payment is made to registered physical therapists as set forth in this Section.

(1) **Children.** Initial therapy evaluations do not require prior authorization and must be provided by a fully licensed physical therapist. All therapy services following the initial evaluation must be prior authorized for continuation of service. Prior to the initial evaluation, the therapist must have on file a signed and dated prescription or referral for the therapy services from the member's physician or other licensed practitioner of the healing arts. The prescribing or referring provider must be able to provide, if requested, clinical documentation from the member's medical record that supports the medical necessity for the evaluation and referral.

(2) **Adults.** There is no coverage for adults for services rendered by individually contracted providers. Coverage for adults is permitted in an outpatient hospital setting as described in Oklahoma Administrative Code (OAC) 317:30-5-42.1.

(3) **Individuals eligible for Part B of Medicare.** Services provided to Medicare eligible recipients are filed directly with the fiscal agent.

(4) **Alternative treatments for pain management.** Refer to OAC 317:30-5-725.

PART 81. CHIROPRACTORS

317:30-5-720. Eligible providers

~~In order to be eligible for payment, the provider of chiropractic services must have a current Memorandum of Agreement with the Oklahoma Health Care Authority.~~ **Chiropractors.**

- (1) Must be appropriately licensed, in good standing in the state in which they practice, and working in accordance with the Oklahoma Chiropractic Practice Act or other applicable statute(s); and
- (2) Entered into a provider agreement with the Oklahoma Health Care Authority (OHCA) to provide chiropractic services.

317:30-5-721. Coverage by category

Payment is made to chiropractors as set forth in this Section.

- (1) **Children.** There is no coverage for children.
- (2) **Adults.** There is no coverage for adults.
- (3) **Individuals eligible for Part B of Medicare.** Payment is made utilizing the Medicaid allowable for comparable services.
- (4) **Manual spinal manipulation services for pain management.** Refer to Oklahoma Administrative Code 317:30-5-724.

PART 82. ALTERNATIVE TREATMENTS FOR PAIN MANAGEMENT

317:30-5-722. General

Alternative treatments for pain management are non-pharmacological treatments recommended by a physician or other licensed practitioner of the healing arts for adults age twenty-one (21) or older with acute, subacute, and chronic spinal/back pain or injury. Treatments are intended to reduce pain, increase mobility, optimize function, and decrease use and misuse of opioid medications and may include the services listed in Part 82, of this Chapter.

317:30-5-723. Eligible providers

(a) **Manual spinal manipulation.** Providers must meet the requirements outlined at Oklahoma Administrative Code (OAC) 317:30-5-720.

(b) **Physical therapy (PT) for alternative treatments for pain management.** Providers must meet the requirements outlined at OAC 317:30-5-290.1.

317:30-5-724. Manual spinal manipulation

Chiropractic services are limited to manual spinal manipulation. This includes the manipulation of the five (5) regions of the spinal column for the treatment of back pain in a member with a primary diagnosis of acute or chronic pain and is performed by a licensed chiropractor.

- (1) **Medical necessity.** All manual spinal manipulation services should be determined to be medically necessary for the affected member. Documentation in the member's plan of care should support the medical necessity of the need for manual spinal manipulation services. The Oklahoma Health Care Authority (OHCA) will serve as the final authority pertaining to all determinations of medical necessity. Refer to Oklahoma Administrative Code (OAC) 317:30-3-1(f) for policy on medical necessity.

(2) **Documentation/requirements.** All documentation submitted to request manual spinal manipulation services should demonstrate, through adequate objective medical records, evidence sufficient to justify the member's need for the service, in accordance with OAC 317:30-3-1(f)(2).

(A) **Evaluations.** One (1) initial evaluation and one (1) re-evaluation, for chiropractic manual spinal manipulation, are allowed per calendar year and do not require a PA.

(B) **Prior authorization (PA).** Documentation, for a PA request, will include the following:

(i) The member is over twenty-one (21) years of age;

(ii) Attestation stating that manual spinal manipulation services are being used in place of opioid treatment for pain or used to decrease the use of opioids;

(iii) Primary diagnosis of acute or chronic spinal pain or neuromusculoskeletal disorder related to the spinal column;

(iv) Plan of care that is designed for the treatment of spinal pain;

(v) Signed informed consent for care;

(vi) For full guidelines, please refer to <https://oklahoma.gov/ohca/mau>.

(C) **Subsequent PA requests.** Requests for a subsequent PA will include the following:

(i) All documentation found at (2)(B)(i) through (v) of this Section;

(ii) Medical records that document that the treatments meet the functional needs of the member;

(iii) Treatment goals for acute pain/injury, chronic pain management, or chronic back pain;

(iv) Treatment evaluations that should demonstrate improvement, including but not limited to, improved function, decreased use of pain medications, increased activity level;

(v) Records showing persistent or recurrent conditions;

(vi) For full guidelines, please refer to <https://oklahoma.gov/ohca/mau>.

(3) **Frequency/coverage.**

(A) SoonerCare covers up to twelve (12) manual spinal manipulation visits per calendar year with an approved PA.

(B) Manual spinal manipulation for the treatment of acute or chronic back pain is the only chiropractic service covered by SoonerCare.

(4) **Reimbursement.** All alternative treatments for pain management services, that are outlined in Part 82 of this Chapter, are reimbursed per the methodology established in the Oklahoma Medicaid State Plan.

(5) **Discontinuation of services.**

(A) If the member's condition is not improving, or the member's condition is regressing, services will not be considered medically necessary.

(B) The OHCA may withdraw authorization of payment at any time if it is determined that the member and/or provider is not in compliance with any of the requirements set forth in this Section.

(6) **Non-covered services.**

(A) Manual spinal manipulation provided solely for maintenance.

(B) Chiropractor services that are not for the alternative treatments of pain management listed in Part 82 of this Chapter.

(C) Manual spinal manipulation services that are provided in a setting other than the chiropractor's office, including but not limited to, inpatient or outpatient hospitals, nursing facilities, rest homes, or the member's home.

317:30-5-725. Physical therapy (PT) for alternative treatments for pain management

PT is used to improve a person's ability to move, reduce or manage pain, restore function, and prevent disability. For pain management, PT is provided in a non-hospital based setting with the aim of decreasing pain and suffering while improving physical and mental functioning.

(1) **Medical necessity.** All services/diagnosis found in the full guidelines at www.okhca.org/mau for alternative treatments for pain management should be determined to be medically necessary for the affected member. Documentation in the member's plan of care should support the medical necessity of the need for alternative treatments for pain management services. The Oklahoma Health Care Authority (OHCA) will serve as the final authority pertaining to all determinations of medical necessity. Refer to Oklahoma Administrative Code (OAC) 317:30-3-1(f) for policy on medical necessity.

(2) **Documentation/requirements.** All documentation submitted to request services should demonstrate, through adequate objective medical records, evidence sufficient to justify the member's need for the service, in accordance with OAC 317:30-3-1(f)(2).

(A) **Evaluations.** One (1) initial PT evaluation and one (1) PT re-evaluation, when necessary, will be covered per calendar year at a non-hospital-based setting and do not require a PA, when the service is performed for the evaluation of therapy services related to alternative treatments of pain management.

(B) **Prior authorization (PA).** Documentation, for a PA request, will include the following:

(i) The member is over twenty-one (21) years of age;

(ii) A prescription or a referral from the member's physician or other licensed practitioner of the healing arts, dated within the previous ninety (90) days requesting the PT services for pain management;

(iii) Attestation stating that PT services are being used in place of opioid treatment for pain or used to decrease the use of opioids;

(iv) Medical records, from the member's physician or other licensed practitioner of the healing arts, documenting the need for the pain management referral;

(v) Documentation from the physical therapist that supports the need for the requested services;

(vi) A detailed report, from the physical therapist, that is gathered from any tool, test, or measure;

(vii) Measurable goals that includes the following:

(I) Timeframe;

(II) Baseline;

(III) Conditions for how goals are expected to be met;

(IV) A statement of rationale; and

(V) Prognosis for achievement.

(viii) A detailed intervention plan that includes:

(I) Frequency and duration of the services and the anticipated length of the intervention;

(II) Location of where the services are provided;

(III) Member and/or family/caregiver involvement in the management and carry-over of the intervention;

(IV) Reasons if the intervention was unsuccessful.

(ix) A completed therapy PA request form;

(x) For full guidelines, please refer to <https://oklahoma.gov/ohca/mau>.

(C) Subsequent PA requests. Requests for a subsequent PA will include the following:

(i) All documentation found at (2)(B) (i) through (viii) of this Section;

(ii) Detailed listing of previous goals, including instances of which goals were unmet and why they were not achieved;

(iii) Treatment goals for acute pain/injury, chronic pain management, or chronic back pain;

(iv) Records showing persistent or recurrent conditions;

(v) Treatment evaluations that show avoidance/prevention or reduction of opioid use;

(vi) A completed therapy PA request form;

(vii) For full guidelines, please refer to <https://oklahoma.gov/ohca/mau>.

(3) Frequency/coverage. A PA for PT for adult treatment of pain management services may be approved for a total of forty-eight (48) units per calendar year. A PT unit for the treatment of pain management in adults is 15 minutes. A visit may consist of multiple units of service on the same date, the time for units of service is added together and rounded up only once per visit.

(4) Reimbursement. All alternative treatments for pain management services, that are outlined in Part 82 of this Chapter, are reimbursed per the methodology established in the Oklahoma Medicaid State Plan.

(5) Discontinuation of services.

(A) If the member's condition is not improving, or the member's condition is regressing, then services will not be considered medically necessary.

(B) The OHCA may withdraw authorization of payment at any time if it is determined that the member and/or provider is not in compliance with any of the requirements set forth in this section.

(6) Non-covered services.

(A) PT provided solely for maintenance.

(B) Therapeutic or physical modalities used to augment a PT program.