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 6, 2025

The proposed policy is an Permanent Rule. The proposed policy was presented at the November 5, 2024 Tribal Consultation. Additionally, this proposal will be presented at a Public Hearing scheduled for January 6, 2025 and will be presented to the Medical Advisory Committee on January 9, 2025 and the OHCA Board of Directors on January 15, 2025

SUMMARY: OHCA will update its policy to remove outdated and inappropriate language. Specifically, references to "mentally retarded" and "mental retardation" will be replaced with the more respectful term "individuals with intellectual disabilities" or "intellectual disability." This update aims to ensure that the language in policy reflects current terminology, promoting dignity and inclusivity.

LEGAL AUTHORITY
The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; 20 CFR Parts 404 & 416; and Sections 25-40 of Title 25 Oklahoma Statute

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA
OKLAHOMA HEALTH CARE AUTHORITY

SUBJECT: Rule Impact Statement
APA WF # 24-31A

A. Brief description of the purpose of the rule:

The proposed policy revisions will update OHCA policy to remove outdated and inappropriate language. Specifically, references to 'mentally retarded' and 'mental retardation' will be replaced with the more respectful term 'individuals with intellectual disabilities' or 'intellectual disability. This update aims to ensure that the language in policy reflects current terminology, promoting dignity and inclusivity.

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 affect SoonerCare members and their families as these proposed revisions will create a more respectful environment when interacting with healthcare

providers and accessing services. This rule change should not place any cost 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 SoonerCare members and their families as this change reflects a commitment to using language that respects all individulas. The proposed rule changes have the potential to improve access to care and health equity.

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 proposed rule changes are 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 21, 2024

RULE TEXT:

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY

CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 9. LONG TERM CARE FACILITIES

317:30-5-130. Inspections of care in Intermediate Care Facilities for ~~the Mentally Retarded~~Individuals with Intellectual Disabilities (ICF/~~MR~~IID)

The Oklahoma Health Care Authority (OHCA) is responsible for periodic inspections of care and services in each ICF/~~MR~~IID providing services for Title XIX applicants and recipients. The inspection of care reviews are made by the OHCA or its designated agent. The frequency of inspections is based on the quality of care and service being provided in a facility and the condition of recipients in the facility. However, the care and services provided to each recipient in the facility must be inspected at least annually. No notification of the time of the inspection will be given to the facility prior to the inspections.

(1) The purpose of periodic inspections is to determine:

(A) The level of care required by each patient for whom Title XIX benefits have been requested or approved.

(B) The adequacy of the services available in the particular facility to meet the current health, rehabilitative and social needs of each recipient in an ICF/~~MR~~IID and promote the maximum physical, mental, and psychosocial functioning of the recipient receiving care in such facility.

(C) The necessity and desirability of the continued placement of each patient in such facility.

(D) The feasibility of meeting the health care needs and the recipient's rehabilitative needs through alternative institutional or noninstitutional services.

(E) If each recipient in an institution for the ~~mentally retarded~~intellectualy disabled or persons with related conditions is receiving active treatment.

(2) Each applicant and recipient record will be reviewed for the purpose of determining adequacy of services, unmet needs and appropriateness of placement. Personal contact with and observation of each recipient will occur during the visit. This may necessitate observing recipients at sites outside of the facility.

(A) Record reviews will include confirmation of whether:

(i) All required evaluations including medical, social and psychological are complete and current.

(ii) The habilitation plan is complete and current.

(iii) All ordered services are provided and properly recorded.

(iv) The attending physician reviews prescribed medications at least quarterly.

(v) Tests or observations of each recipient indicated by his medication regimen are made at appropriate times and properly recorded.

(vi) Physicians, nurse, and other professional progress notes are made as required and appear consistent with the observed condition of the recipient.

(vii) There is a habilitation plan to prevent regression and reflects progress toward meeting objectives of the plan.

(viii) All recipient needs are met by the facility or through arrangements with others.

(ix) The recipient needs continued placement in the facility or there is an appropriate plan to transfer the recipient to an alternate method of care.

(B) Observations and personal contact with recipients will include confirmation of whether:

(i) The habilitation plans are followed.

(ii) All ordered services are provided.

(iii) The condition of the recipient is consistent with progress notes.

(iv) The recipient is clean and is receiving adequate hygiene services.

(v) The recipient is free of signs of malnutrition, dehydration and preventable injuries.

(vi) The recipient is receiving services to maintain maximum physical, mental, and psychosocial functioning.

(vii) The recipient needs any service that is not furnished by the facility or through arrangements with others.

(3) A full and complete report of observations, conclusions and recommendations are required concerning:

(A) The adequacy, appropriateness, and quality of all services provided in the facility or through other arrangements, including physician services to recipients; and

(B) Specific findings about individual recipients in the facility.

(4) The inspection report must include the dates of the inspection and the names and qualifications of the individuals conducting the inspection. A copy of each inspection report will be sent to:

(A) The facility inspected;

(B) The facility's utilization review committee;

(C) The agency responsible for licensing, certification, or approval of the facility for purposes of Medicare and Medicaid; and

(D) Other state agencies that use the information in the reports to perform their official function, including if inspection reports concern Institutions for Mental Diseases (IMDs), the appropriate State mental health authorities.

(5) The Oklahoma Health Care Authority will take corrective action as needed based on required reports and recommendations.

PART 43. AGENCY COMPANION, SPECIALIZED FOSTER CARE, DAILY LIVING SUPPORTS, GROUP HOMES, AND COMMUNITY TRANSITION

317:30-5-423. Coverage limitations

(a) Coverage limitations for residential supports for members with an intellectual disability are:

(1) Description: agency companion services (ACS); Unit: one day; Limitation: 366 units per year;

(2) Description: specialized foster care (SFC); Unit: one day; Limitation: 366 units per year;

(3) Description: daily living supports (DLS); Unit: one day; Limitation: 366 units per year; and

(4) Description: group home services; Unit: one day; Limitation: 366 units per year.

(b) Members may not receive ACS, SFC, DLS and group home services at the same time.

(c) Community transition services (CTS) are limited to $2,400 per eligible member.

(1) CTS is limited to one transition over the member's lifetime. If the member's situation changes after receipt of CTS and hospitalization or readmission to an intermediate care facility for the ~~mentally retarded~~intellectually disabled (ICF/~~MR~~IID) is necessary, CTS is not authorized upon transition back into the community.

(2) Members moving into a group home, SFC, or ACS arrangement in the companion's home are not eligible to receive CTS.