

Oklahoma Health Care Authority
State Fiscal Year 2019 Tribal Consultation Annual Report
July 1, 2018 – June 30, 2019

OHCA is committed to active communication with tribal governments during the decision-making and priority-setting process. OHCA convenes regularly and has ad hoc tribal consultation meetings throughout the year. It is OHCA practice to consult on all matters including direct, indirect and no impact on Indian Health Services, Tribal Facilities, Urban Indian Clinics and American Indian SoonerCare members. This report consists of the SFY 2019 proposed rule, state plan and waiver amendments that were considered during tribal consultation.

Total Considered: 59

Pending: 26

Withdrawn: 2

Effective: 29

Total Considered with Tribal Impact: 31

Pending: 13

Withdrawn: 1

Effective: 15

Total with No Tribal Impact: 28

Work Requirements as a Condition of SoonerCare Eligibility – The proposed policy will establish work requirements as a condition of eligibility for applicable adults age 19 through 50. The agency has been instructed to use the Supplemental Nutrition Assistance Program criteria and exemptions to structure this provision as a condition of eligibility for certain individuals. The state is also able to propose exemptions for additional populations, as it deems necessary to mitigate unintended negative eligibility consequences to appropriate populations. Revisions will outline work requirements, including but not limited to: activities that satisfy as work requirements; individuals who are exempt; steps to take if a member's exemption status or employment status changes; reenrollment conditions after a member loses eligibility for non-compliance; and fair hearing rights.

Consultation: 07/11/2018; Status: Pending CMS Approval.

Supplemental Reimbursement for Ground Emergency Services – Proposed policy changes will establish supplemental reimbursement, in addition to the rate of payment that eligible Medicaid ground emergency transportation providers already receive, for ground emergency medical transportation services. The proposed supplemental payments will be reimbursed through a Certified Public Expenditure methodology. The proposed policy changes will also establish GEMT provider eligibility, program participation guidelines and annual cost-reporting requirements.

Consultation: 07/11/2018; Status: Approved by CMS on 03/05/19; Effective 10/01/2019.

Public Health Nurses Contract – Currently, Tribal Public Health Nurses are completing paraprofessional contracts which contain incorrect terms and conditions. We have developed a more appropriate contract for this provider type. Once the system is ready, TPHN's will be able to enroll online and maintain their provider files labeled as TPHNs. (Contract attached)

Consultation: 07/11/2018; Status: Effective 02/01/2019.

Program for all-Inclusive Care for the Elderly – The proposed revisions to the PACE policy will update requirements for the Uniform Comprehensive Assessment Tool. These revisions are being made in order to reflect current business practices.

Consultation: 09/04/2018; Status: Effective 09/01/2019.

Exclusion of Certain Underpayments from Resources (initiated by OKDHS) – The proposed revisions will update eligibility policy on countable income and resources, so that it is consistent with federal law. When determining the resources of an individual for eligibility for the Aged, Blind, and Disabled program, the unspent portion of any Social Security retroactive payments are excluded for nine months.

Consultation: 09/04/2018; Status: Effective 09/01/2019

Provider Rate Increase Update – Revisions are needed to increase the current reimbursement rates for all SoonerCare-contracted provider types by 3%, with the following exemptions: services financed through appropriations to other state agencies; Durable Medical Equipment Prosthetics, Orthotics and Supplies; non-emergency transportation capitated payments; services provided to Insure Oklahoma members; payments for drug ingredients and physicians supplied drugs; Indian Health Services, Tribal Facilities and Urban Indian Clinics; Federally Qualified Health Cents; and Rural Health Centers. Additionally, changes will be made to accommodate an increase to the current rates for SoonerCare-contracted long-term care facilities by 4%. The 4% increase for long-term facilities is calculated only on the portion of the rate funded by state appropriations, resulting in an increase on the total rate of 3.2% for Regular Nursing Facilities and 3.5%

for Regular and Acute Intermediate Care Facilities for Individuals with Intellectual Disabilities. All rate increases must comply with state and federal law as well as state cost reimbursement methodologies. This is an update to the item presented at the May 16, 2018 Tribal Consultation where a 2% rate increase for all providers (less the exemptions aforementioned) and a 3% rate increase for long-term care facilities was proposed. This item will have an expedited tribal consultation period of 14 days. **Consultation: 09/04/2018; Status: Approved by CMS through 4 SPAs with the following dates: 09/26/2019; 10/03/2019; and 10/24/2019; Effective 10/01/2018.**

Senate Bill 972 – Diabetes Self-Management Training – To provide an overview and update to the Tribal Partners on Senate Bill 972 – effective 11-01-18 (passed the Senate 04-12-18, House of Representatives 04-09-18, and signed by the Governor), per Senator Frank Simpson, Senator Anastasia Pittman and Representative Pat Ownbey, that directs the Oklahoma Health Care Authority to;

Examine the feasibility of a State Plan Amendment to the OK Medicaid program for Diabetes Self-Management Training;

Requires OHCA to submit a report by 12-01-18 to the President Pro Temp, House Speaker and the Governor to include

- The estimated potential costs to the State
- Clinical findings
- Review of DSMT pilot projects
- Research of other states' effects of DSMT on persons with diabetes.

OHCA will draft a SPA, beginning 07-01-19, subject to funding availability, for DSMT for persons with diabetes.

Provisions of this legislation will apply only if the report demonstrates DSMT to be evidence-based and essential to qualifying participants in the OK Medicaid program. **Consultation: 09/04/2018; Status: SPA is pending submission to CMS; Rules are pending submission to the Oklahoma Governor and Legislature.**

Update Electronic Health Record Incentive Program Policy — The proposed revisions will amend policy about how to qualify for the EHR Incentive Program by changing the timeframe in which hospitals must meet the SoonerCare patient volume criteria for a continuous 90-day period from the preceding calendar year to the preceding federal fiscal year. Additionally, the proposed revisions will add a 30-day time limit for eligible providers to submit documentation or make corrections to avoid denial of their EHR attestation. Finally, the proposed revisions will add language further defining the process and timeframes for providers to request an informal reconsideration or a formal appeal.

Consultation: 11/06/2018; Status: Effective 09/01/2019.

Suspended Claims Review and Prepayment Review — The proposed revisions will help ensure OHCA follows state and federal law by adding rules that define and explain the various reviews that may be performed by OHCA or its contractor. Suspended claims review and provider-specific prepayment review are two examples. The proposed rules will help OHCA safeguard against unnecessary utilization of medical supplies and services and help ensure payments are consistent, efficient, economic and provide good quality of care. Finally, these revisions help ensure reimbursements are for medically necessary and otherwise appropriate medical supplies and services.

Consultation: 11/06/2018; Status: Effective 09/01/2019.

Breast and Cervical Cancer Treatment Program — The proposed revisions to the BCC policy will provide cleanup and removal of old references and outdated language in order to reflect current business practices. Additionally, policy will reflect new guidelines that are already being implemented to make the “in need of treatment” determination.

Consultation: 11/06/2018; Status: Effective 09/01/2019.

Eligibility Termination as Indicated by Returned Mail — Policy will be added to expedite compliance with the Act to Restore Hope, Opportunity and Prosperity for Everyone, codified at 56 O.S. §§ 246 through 250. The HOPE Act requires verification of a member’s residency status. In accordance with the new policy, a member’s eligibility will be terminated if his or her mail is returned to the agency as unforwardable, with address unknown. Per 42 C.F.R. §§ 431.213 and 431.231, advance notice is not required to be given to the member when eligibility is terminated due to returned mail; however, if the member’s whereabouts become known within the eligibility period, eligibility will be reinstated.

Consultation: 11/06/2018; Status: Effective 07/01/2019

Deductible and Coinsurance for Medicare Claims — The proposed revisions will update the reimbursement percentage amount for deductible and coinsurance on crossover claims to reflect current practice. Revisions are needed within the State Plan and SoonerCare rules.

Consultation: 11/06/2018; Status: Effective 09/01/2019

Non-Emergency Transportation — The proposed revisions will amend policy to provide non-emergency transportation to 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.

Consultation: 11/06/2018; **Status:** Effective 09/01/2019.

Countable Income and Resources Policy Change — The proposed revisions will amend policy on resources that are disregarded by Federal law due to Oklahoma transitioning from a 209(b) state to a Supplemental Security Income criteria state for determination of eligibility for SSI related eligibility groups such as the Aged, Blind, and Disabled.

Consultation: 01/08/2019; **Status:** Effective 09/01/2019.

Application Fees and Provider Screening — The proposed revisions to the general provider policies will establish application fees required by Federal law for providers enrolling or re-enrolling in Medicaid. Providers who do not have to pay the application fee are: individual practitioners; providers who paid the fee to Medicare; and providers who paid the fee to another State Medicaid agency. Revisions also outline provider screening and enrollment requirements designed to help prevent Medicaid provider fraud, waste or abuse. Provider screening requirements are outlined according to three categorical screening levels: limited-risk; moderate-risk; and high-risk. Examples of screening requirements are licensure verification, on-site visits and fingerprint-based background checks.

Consultation: 01/08/2019; **Status:** Effective 09/01/2019.

Timeframe for Appeals — The proposed revisions will extend the length of time that a member or provider has to request an appeal of an adverse agency action, from 20 days to 30 days. Additionally, the revisions add Supplemental Hospital Offset Payment Program appeals to the list of other grievance procedures and processes.

Consultation: 01/08/2019; **Status:** Effective 09/01/2019.

Maternal Depression Screening — The proposed revisions will add coverage and reimbursement language for maternal depression screenings at Early and Periodic Screening, Diagnostic and Treatment well-child visits. The policy will also reiterate how OHCA adopts and utilizes the American Academy of Pediatrics' Bright Futures periodicity schedule in relation to maternal depression screenings. Additionally, the proposed revisions will update the child abuse section to provide a more thorough explanation of how to report child abuse, including clarifying text and updating outdated citations.

Consultation: 01/08/2019; **Status:** Effective 09/01/2019.

Mobile Dental Services — The proposed revisions will add coverage and reimbursement for preventive dental services received through a mobile dental clinic. Additionally, revisions will delineate mobile dental clinic provider participation requirements pursuant to the State Dental Act, while also defining coverage and limitations for preventive dental services, basic consent form requirements and medical records requirements.

Consultation: 01/08/2019; Status: This change is still going through the research and planning process. Due to changes that have been made, it will be presented back to Tribal at a later date.

Out-of-State Services — The proposed revisions will define and clarify coverage and reimbursement for services rendered by providers that are physically located outside Oklahoma. Additionally, revisions will delineate out-of-state services, provider participation requirements, prior authorizations and medical records requirements. Lastly, revisions will outline reimbursement criteria for out-of-state providers who do not accept the payment rate established through the Oklahoma State Plan.

Consultation: 01/08/2019; Status: Effective 09/01/2019

Applied Behavioral Analysis Services — The proposed revisions will add new language establishing coverage and reimbursement for ABA services as an Early and Periodic Screening, Diagnostic, and Treatment program benefit. The proposed language will define provider participation and credentialing requirements; medical necessity criteria; coverage and service limitation guidelines; and reimbursement methodology.

Consultation: 01/08/2019; Status: Rules became effective on 07/01/2019; SPA is pending CMS approval.

Diabetes Self-Management Training — The proposed revisions will add new language establishing coverage and reimbursement for DSMT, an educational disease management benefit designed to teach individuals how to better manage and control their diabetes. The proposed revisions will define member eligibility for DSMT services; provider participation requirements; and program coverage and limitations. Lastly, the proposed revisions will establish reimbursement methodology and applicable rates for DSMT services.

Consultation: 01/08/2019; Status: SPA is pending submission to CMS; Rules are pending submission to the Oklahoma Governor and Legislature.

Retro-eligibility for Pregnant Women and Persons under 19 — The proposed revisions enables the State to grant retroactive eligibility to pregnant women and children under 19. Eligibility for Medicaid shall be effective no later than 90 days from the application date

if the following conditions are met: (1) if the individual received covered Medicaid services at any time during the above period; and (2) if the individual would have been eligible for Medicaid at the time they received the services if they had applied or someone had applied for them. Previously, the Center for Medicaid and Medicare Services had allowed Oklahoma to waive the requirement of retro-eligibility for pregnant women and children under 19; however, in the latest approval of Oklahoma's 1115(a) waiver, CMS removed this exception.

Consultation: 01/08/2019; Status: Pending submission to CMS.

Limitation of Outpatient Laboratory, X-Ray, and Select Machine Testing Services for Adults — The proposed revisions were presented to the Jan. 2, 2018 Tribal Consultation but were tabled due to need for further guidance from CMS in order to clarify additional exclusions to the benefit limitation for outpatient laboratory, x-ray and select machine testing services provided to adults on a fee-for-service basis. Revisions will include a cap on services per member per year; certain diagnoses will be exempt from this restriction, [to some high cost diagnostic testing (i.e., MRI, MRA, etc.)]. Further exclusions will include services provided to individuals under 21 as well as services received through federally qualified health centers and Indian Health Service, tribal government(s), or urban Indian health program facilities. A process for authorizing additional claims will be used for individuals who meet medical necessity criteria demonstrating the need for additional services. Changes are needed to limit inappropriate billing of wellness panels and other preventive tests in accordance with section 1902 of The Social Security Act.

Consultation: 01/08/2019; Status: Pending submission to CMS.

Waiver Revisions for Health Management Program – The proposed revisions were presented at the Sept. 4, 2018 Tribal consultation and are included on this Tribal consultation agenda for documentation to be provided to the Centers for Medicare and Medicaid Services. An amendment is needed for the 1115(a) waiver for the 2019–2021 period. OHCA will ask the CMS to revise the waiver special terms and conditions effective July 1, 2019 to reflect a more current description of the HMP and its services. The HMP was developed in response to a state mandate found at 56 O.S. 1011.6, and seeks to improve the quality of care, and reduce cost of care for SoonerCare members with chronic conditions. The “Health Management Program Defined” section will be updated to provide more options for data analytics than the current reference to HMP predictive modeling software. In addition, the HMP “Services” section will be revised to focus more broadly on interventions used in HMP and remove limitations that refer to

settings, and to allow for new approaches in practice facilitation to address emerging health trends. OHCA also proposes to add a sentence to the description regarding the length of time a member may be served in HMP, as follows: Maximum benefit is determined individually for each member served, and considers diagnoses, goals and progress achieved.

Consultation: 01/08/2019; Status: Pending CMS approval.

Therapeutic Foster Care Revisions (initiated by OKDHS) – The proposed revisions will align therapeutic foster care policy with current practice. Revisions will add new language establishing a more intensive treatment program for children in the Oklahoma Department of Human Services and the Oklahoma office of Juvenile Affairs custody known as Intensive Treatment Family Care. ITFC is a therapeutic foster care model whose goal is to stabilize children with severe emotional and behavioral disorders while in a family-like setting so that a transition to a lower level of care can occur. The proposed revisions will define ITFC; member criteria for the provision of ITFC services; provider participation and credentialing requirements; and program coverage and limitations. Lastly, the proposed revisions will establish reimbursement methodology and applicable rates for ITFC services.

Consultation: 10/02/2019; Status: Rules are pending approval from the Oklahoma Governor and Legislature; SPA is pending approval from CMS.

Access Monitoring Review Plan – In 2015, the Centers for Medicare and Medicaid Services issued a final rule directing states to analyze and monitor access to care for Medicaid fee-for-service programs. Through an access monitoring review plan, the State demonstrates sufficient access to care by measuring the following: enrollee needs, the availability of care and providers, utilization of services, characteristics of the enrolled members and estimated levels of provider payment from other payers. The AMRP must be created in consultation with the Medical Advisory Committee, be published and made available to the public for a period of no less than 30 days prior to being submitted to CMS. The final rule instructed the State to submit the initial AMRP on Oct. 1, 2016 and requires the State to submit a revised plan to CMS every three years thereafter. The State will submit the revised AMRP to CMS by Sept. 30, 2019, noting its analysis of access, any deficiencies and how the State plans to resolve access issues should they arise. The final rule further instructs states to conduct and submit access to care analysis of State Plan Amendments promulgated that affect payment methodology and/or rates which could result in decreased access to care; these access to care analyses on SPAs are reported within the AMRP.

Consultation: 05/07/2019; Status: Pending CMS approval.

Cost Sharing Exemptions – Policy is being amended to align practice with federal regulation regarding cost sharing exemptions for American Indian and Alaskan Native members as per 42 Code of Federal Regulations (CFR) 447.56(x). The State is currently utilizing claims and claims review to identify members who are eligible to receive, currently receiving or have ever received an item or service furnished by an Indian health care provider or through referral under contract health services, and exempt them from cost sharing requirements. The State is seeking authority to allow members, not identified through claims or claims reviews, to self-attest that they meet the requirements for cost sharing exemptions as per 42CFR447.56(x).

Consultation: 05/07/2019; Status: Pending CMS approval.

Applied Behavior Analysis Services (EPSDT Only) – ABA proposed policy changes regarding coverage and reimbursement, provider participation and credentialing requirements, medical necessity criteria and service limitations were presented during the Jan. 8, 2019 Tribal consultation; this agenda item serves as a follow up to discuss the proposed reimbursement methodology for ABA services. This proposal will have a 14-day expedited Tribal consultation comment period.

Consultation: 05/07/2019; Status: Follow up from January Consultation- Rules became effective on 7/1/2019; SPA is pending CMS approval.

Telehealth Services – The proposed policy will revise language regarding parental consent and primary care provider notification for telehealth services provided in school settings. Additional policy changes include revisions regarding confidentiality of protected health information and adding language that defines telehealth program coverage and limitations. Policy revisions are needed to comply with Senate Bill 575 (SB 575) which amended Oklahoma Statutes (O.S.) 25, Sections 2004 and 2005.

Consultation: 06/18/2019; Status: Pending approval from the Oklahoma Governor and legislature.

Step Therapy Exception – OHCA is considering regulatory changes in order to comply with Senate Bill 509 (SB509), which was signed into law by the Governor on April 16, 2019. The new law requires OHCA (and all Oklahoma insurance carriers) to revise current step therapy protocols for medications approved by the Drug Utilization Review Board to provide for exceptions to the drug step therapy protocol in cases when: the required prescribed drug will likely cause an adverse reaction or harm; the prescription drug will likely be ineffective; the patient has already tried the prescription drug and

discontinued use; or the prescription drug is not in the best interest of the patient, based on medical necessity; or the patient is stable on another prescription drug.
Consultation: 06/18/2019; Status: Rules are pending submission to the Oklahoma Governor and Legislature; SPA is pending submission to CMS.

Removing Barriers for Medication Assisted Treatment – OHCA is continuing to engage in an effort to combat the prescription drug abuse epidemic in Oklahoma. Medication Assisted Treatment is the use of medications with counseling and behavioral therapies to treat substance use disorders and prevent opioid overdose. The proposed revisions will reduce barriers for Medication Assisted Treatment by removing the prior authorization and copays. These revisions will exclude select products from the prescription limits and amend the cost sharing language to include prescriptions with \$0 copay.
Consultation: 06/18/2019; Status: Rules are pending submission to the Oklahoma Governor and Legislature; SPA is pending submission to CMS.