



Kevin Corbett | Chief Executive Officer

J. Kevin Stitt | Governor

I/T/U Public Notice 2021-18

December 21, 2021,

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

Dear Tribal Representative:

The purpose of this letter is to notify you of proposed changes that will be reviewed at the tribal consultation meeting on January 4<sup>th</sup>, 2022, at 11 a.m. OHCA invites you to attend this meeting via webinar, 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, proposed changes must obtain budget authorization and approval by the OHCA board, and when applicable, federal and governor approval must be obtained.

Additionally, OHCA posts all proposed changes on the agency's [Policy Change Blog](#) and the [Native American Consultation Page](#). These public website pages 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.

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,

Dana Miller  
Director, Tribal Government Relations



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

Please note, the 2022 meeting dates for MAC and Board are tentative and subject to change. The MAC and Board will not vote on their future 2022 meeting dates until their respective November 2021 meetings. Additionally, unless otherwise identified as an emergency rule, all rules will be going through the permanent rulemaking process.

**Opioid Treatment Provider (OTP) Policy Changes**— The proposed revisions will update current OTP service and documentation requirements to align with the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) provider certification standards. Finally, the proposed rulemaking will correct minor formatting and grammatical errors.

**Proposed Rule Timeline:**

**60-day Tribal Consultation Period:** December 21, 2021 – February 19, 2022

**Tribal Consultation:** January 4, 2022

**Public Comment Period:** February 1, 2022 – March 3, 2022

**Medical Advisory Committee:** March 10, 2022

**OHCA Board Meeting:** March 16, 2022

**Proposed Effective Date:** September 2022

**Obstetric (OB) Ultrasound Coverage** – The proposed revisions will amend policy to provide coverage of OB ultrasounds when performed at the emergency room setting when medically necessary without prior authorization.

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**Tribal Consultation:** January 4, 2022

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**Medical Advisory Committee:** March 10, 2022

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**Proposed Effective Date:** September 2022



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**Partial Hospitalization Program (PHP) Services for Adults** — In coordination with the Oklahoma Department of Mental Health and Substance Abuse Services (OMHSAS), the Agency seeks to implement Partial Hospitalization Program (PHP) services for individuals ages 21 through 64 with substance use disorder, mental health diagnoses, and/or co-occurring disorders. Currently, PHP services are a benefit offered only to children under the age of 21. The State Plan amendment and rules will delineate covered service components, provider qualifications, and the reimbursement methodology for PHP services provided to adults. Additionally, the proposed rulemaking will reorganize current policy at OAC 317:30-5-241.2 (Psychotherapy, Multi-systemic therapy, PHP, and day treatment programs) into independent sections for clarity. Moreover, the requested rulemaking will clarify that PHP services for children are prescribed by a physician, physician's assistant, or advanced registered nurse practitioner. Finally, the proposed rulemaking will correct minor formatting and grammatical errors.

**Proposed Rule and State Plan Amendment Timeline:**

**60-day Tribal Consultation Period:** December 21, 2021 – February 19, 2022

**Tribal Consultation:** January 4, 2022

**Public Comment Period:** February 1, 2022 – March 3, 2022

**Medical Advisory Committee:** March 10, 2022

**OHCA Board Meeting:** March 16, 2022

**CMS Submission Date:** April 1, 2022

**Proposed Effective Date:** September 2022

**Lodging and Meals Revisions** — The proposed revisions will outline who can request the lodging and meal services and the timeframe that the request must be submitted. Additionally, a clause addressing emergency situations will be added to override the timeframe. The proposed revisions will also outline the information that must be submitted with each request. Further revisions will define meal requirements and what constitutes a meal. Additional revisions will outline how lodging providers and members authorize the member's length of stay. Authorization for length of stay includes having the lodging provider create a document/attestation that lists all the dates that the member has stayed in the facility and requiring the member's review and signature of the document/attestation before he/she/they checks out of the lodging provider's facility. Furthermore, the revisions will specify that it is the responsibility of both, the lodging provider and the member, to ensure that the document/attestation is verified and signed. Additional policy changes will add descriptions and processes for incidental charges and complaints. These changes are necessary to align the policy with current business practices.

**Proposed Rule Timeline:**

**60-day Tribal Consultation Period:** December 21, 2021 – February 19, 2022



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**Public Comment Period:** February 1, 2022 – March 3, 2022

**Medical Advisory Committee:** March 10, 2022

**OHCA Board Meeting:** March 16, 2022

**Proposed Effective Date:** September 2022

**Dental Out-of-State Services Revisions** — The proposed revisions will update the current out-of-state services policy to allow for SoonerCare members to travel up to one hundred miles (100) from the Oklahoma border to receive dental services.

**Proposed Rule Timeline:**

**60-day Tribal Consultation Period:** December 21, 2021 – February 19, 2022

**Public Comment Period:** February 1, 2022 – March 3, 2022

**Medical Advisory Committee:** March 10, 2022

**OHCA Board Meeting:** March 16, 2022

**Proposed Effective Date:** September 2022

**Private Duty Nursing (PDN) Revisions** — The proposed revisions will update how assessments for PDN services are conducted. Additional revisions will clarify who can sign the PDN treatment plan. Finally, revisions will update grammatical and formatting errors, as well as reorganization of the policy for better clarity and understanding.

**Proposed Rule Timeline:**

**60-day Tribal Consultation Period:** December 21, 2021 – February 19, 2022

**Public Comment Period:** February 1, 2022 – March 3, 2022

**Medical Advisory Committee:** March 10, 2022

**OHCA Board Meeting:** March 16, 2022

**Proposed Effective Date:** September 2022

**Pregnant Women Copayment Language Cleanup** — The proposed rule changes will further clarify that no copayment is assessed to pregnant women covered by SoonerCare. The policy changes align Oklahoma's administrative rules regarding copayments for pregnant women with current business practices.



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**Proposed Rule Timeline:**

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**Medical Advisory Committee:** March 10, 2022

**OHCA Board Meeting:** March 16, 2022

**Proposed Effective Date:** September 2022

**Outdated/Obsolete Policy Language Cleanup** — The proposed rule changes will amend language to remove obsolete references. Additional revisions will combine sections of policy to decrease the overabundant number of sections that are currently in Title 317.

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**Proposed Effective Date:** September 2022

**Rural Health Centers (RHC) and Federally Qualified Health Centers (FQHC) Visit Limitation Revisions** — The proposed revisions will add language that allows for a SoonerCare Choice member, who has chosen an RHC/FQHC as his/ her/their Patient Centered Medical Home/Primary Care Provider, to exceed the four (4) visit limitation.

**Proposed Rule Timeline:**

**60-day Tribal Consultation Period:** December 21, 2021 – February 19, 2022

**Public Comment Period:** February 1, 2022 – March 3, 2022

**Medical Advisory Committee:** March 10, 2022

**OHCA Board Meeting:** March 16, 2022

**Proposed Effective Date:** September 2022

**Referrals for Specialty Services Revisions** — The proposed revisions will update referrals for specialty services within the SoonerCare Choice program. The changes will outline how administrative referral requests are made and the information that must be provided for the OHCA to process the request. These changes are necessary to eliminate fraud/abuse and to align policy with current business practices.



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**Proposed Effective Date:** September 2022

**Fluoride Varnish and Periodontal Maintenance Revisions** — The proposed revisions will remove the certification requirement for primary care physicians (PCPs) to provide fluoride varnish during the course of a child-health screening for those members who are ages six (6) months to sixty (60) months. Additional revisions will add coverage for periodontal maintenance; the benefit will be provided to members who have a history of periodontitis, but are no longer eligible for oral prophylaxis, once every six (6) months.

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**Public Comment Period:** February 1, 2022 – March 3, 2022

**Medical Advisory Committee:** March 10, 2022

**OHCA Board Meeting:** March 16, 2022

**Proposed Effective Date:** September 2022

**QMBP (Qualified Medicare Beneficiary Plus) Policy Clarification** – Policy will be revised to match business practice in specific instances where an eligible individual is over the Supplemental Security Income's (SSI) income standard due to the income of an ineligible spouse.

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**60-day Tribal Consultation Period:** December 21, 2021 – February 19, 2022

**Public Comment Period:** February 1, 2022 – March 3, 2022

**Medical Advisory Committee:** March 10, 2022

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**Reasonable Limits on Medically Necessary Incurred Medical Expenses Not Covered under Medicaid —**

A state plan amendment (SPA) and rules will establish exclusions and/or requirements of the amount of medical expenses that can be deducted during the post-eligibility treatment of income (PETI) process for individuals who are institutionalized or receiving home or community-based services (HCBS) under a 1915 waiver pursuant to federal regulation.

**The timeline for this policy change is still TBD; changes in policy will occur after the public health emergency ends.**

**Supplemental Drug Rebate Updates** -- The proposed amendment to the state plan will revise the State's Supplemental Rebate Agreement (SRA) to update the applicable date of the new SSDC rebate agreement.

**Proposed SPA Timeline:**

**60-day Tribal Consultation Period:** January 4, 2022 - March 4, 2022

**Public Comment Period:** January 4, 2022 - February 4, 2022

**Requested Effective Date:** January 1, 2023

**Routine Patient Costs Associated with Qualified Clinical Trials** -- Beginning January 1, 2022, a new mandatory benefit is added to the Social Security Act for routine patient costs for items and services furnished in connection with participation by Medicaid beneficiaries in qualifying clinical trials. These services include any item or service provided to a member under the qualifying clinical trial, including any item or service provided to prevent, diagnose, monitor, or treat complications resulting from participation in the qualifying clinical trial. Routine patient costs associated with qualified clinical trials will be covered to the extent that the provision of such items or services to the member would otherwise be covered outside the course of participation in the qualifying clinical trial under the state plan, home and community-based services (HCBS) waiver, and the 1115 SoonerCare demonstration project. The coverage determination shall be completed within 72 hours and shall be based on attestation from the qualified clinical trial provider. Reimbursement for routine patient costs associated with qualified clinical trials will follow the Agency's existing rate methodology within the Oklahoma State Plan for the individual service/item provided. A state plan amendment (SPA) is required to assure coverage and participation requirements of the aforementioned services. Agency rules currently include policies related to routine patient costs for a Medicaid member participating in a qualifying clinical trial; however, revisions are needed to add the 72-hour coverage determination.



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**Proposed SPA Timeline:**

**60-day Tribal Consultation Period:** January 4, 2022 - March 4, 2022

**Public Comment Period:** February 2, 2022 - March 4, 2022

**Requested Effective Date:** January 1, 2022

**Proposed Rule Timeline:**

**60-day Tribal Consultation Period:** January 4, 2022 - March 4, 2022

**Public Comment Period:** February 1, 2022 - February 16, 2022

**Medical Advisory Committee:** March 10, 2022

**OHCA Board Meeting:** March 16, 2022

**Requested Effective Date:** Upon Governor's signature or the 45<sup>th</sup> day post submission of the rules to the Governor (April 30, 2022)

**Individual Placement Support (IPS) Services Home and Community Based Services (HCBS) 1915i Waiver**

– The Agency will pursue a 1915i HCBS state plan amendment (SPA) and rules to add coverage of individual placement support (IPS) and housing support services for individuals with serious mental illness/serious emotional disorder (SMI/SED) with income at or below 150% FPL. IPS is an evidence-based practice that helps people with mental illness and/or substance use disorder develop skills and knowledge to help them

integrate back into the work community. The components of IPS the State is looking to pursue include: an assessment, job development/placement, and coaching. Additionally, housing support services will also be requested through the 1915i HCBS state plan amendment (SPA). Housing support services include assessing the participant's housing needs and presenting available options, assisting in securing housing, and environmental modifications to install necessary accommodations for accessibility.

**Proposed SPA Timeline:**

**60-day Tribal Consultation Period:** January 4, 2022 – March 4, 2022

**Public Comment Period:** January 4, 2022 – February 4, 2022

**Requested Effective Date:** September 1, 2022

**Proposed Rules Timeline:**

**TBD pending Federal authority approval**



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**Laboratory Services** - The proposed revisions will remove outdated language referencing "custom panels particular to the ordering provider" from the list of non-compensable laboratory services to reflect current business practices. Additional revisions will reorganize the existing laboratory policies and combine them into one centralized location. This will allow for better access to the policies and an easier understanding of services covered under the laboratory benefit.

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**Adult Expansion ABP Benefits Update** - The OHCA seeks to amend the Alternative Benefit Plan (ABP) to add Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) services for expansion adult members who are determined to be in need of such care. The ABP will also include an amendment

to appropriately name the inpatient rehabilitation hospital benefit by removing "skilled nursing" from title.

**Proposed SPA Timeline:**

**60-day Tribal Consultation Period:** January 4, 2022 - March 4, 2022

**Public Comment Period:** February 2, 2022 - March 4, 2022

**Requested Effective Date:** January 1, 2022

**Dental Prophylaxis Revisions** — The proposed revisions will update the timeframe for dental prophylaxis from once every 184 days to once every six (6) months. This change will align the dental prophylaxis timeframe with that of the periodic oral exam. These two services are normally performed together; however, the differentiating timeframes have created a barrier for providers and members.

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**Proposed Effective Date:** September 2022

**Proposed SPA Timeline:**

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**Public Comment Period\*:** February 1, 2022 – March 3, 2022

**Requested Effective Date:** September 1, 2022

\*Subject to change

**Nursing Facility Ancillary and Routine Services-** The proposed revisions will clarify and better define what routine services are covered and reimbursed within the LTC facilities per diem. Additionally, proposed rules will define ancillary services and clarify which ancillary services may be billed on a fee-for-service (FFS) basis/outside of the LTC facilities per diem rate, unless reimbursement is available from Medicare or other insurance or benefit programs. Revisions are necessary to align policy with current business practices and federal regulations.

**Proposed Rule Timeline:**

**60-day Tribal Consultation Period:** January 4, 2022 - March 4, 2022

**Public Comment Period:** February 1, 2022 - February 16, 2022

**Medical Advisory Committee:** March 10, 2022

**OHCA Board Meeting:** March 16, 2022

**Requested Effective Date:** Upon Governor's signature or the 45<sup>th</sup> day post submission of the rules to the Governor (April 30, 2022)

**Developmental Disabilities Services (DDS) Updates for Specialized Foster Care, Agency Companion, Employment Services and Self-Directed Services** – The proposed revisions to the DDS policy will add language to clarify that occupation and physical therapy services can include assistive technology, positioning, and mobility. Additional revisions for speech-language pathology services state that a provider cannot bill or receive reimbursement solely for writing the member's report or recording other documentation. Final revisions will correct formatting and grammatical errors, as well as align policy with current business practices.



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**Developmental Disability Services (DDS) Updates for Specialized Foster Care (SFC), Agency Companion, Employment Services and Self-Directed Services** – The proposed revisions to the DDS policy will add and provide new guidelines to staff that address provisions for the member's safety including: requirements for member's pets; appropriate supervision as it relates to unrelated habilitation training specialist staffing the home; and outlining actions taken by the provider following an injury to the service recipient. Other revisions will add language to clarify home standard exceptions concerning when adult members will be allowed to share bedrooms; the exception for the division director or designee to allow use of non-traditional bedding for temporary respite; and bedding types that are not usually allowed. Additional revisions to the specialized foster care (SFC) section include language to outline substitute supervision criteria. Revisions will also update SFC travel requirements to clarify transportation limits for vacation and what are considered non-covered trips. Other revisions will update the minimum contribution fee from \$250 to \$300 per month for the SFC providers who serve adults. New language will also provide

clarification on the case manager's role in reporting issues of concern. Further revisions will add job coaching as a self-directed service in the In-Home Supports Waiver for Adults, In-Home Supports Waiver for Children, and the Community Waiver when the member lives in a non-residential setting. Finally, revisions will update and remove outdated language and definitions, remove obsolete references, revoke/combine sections to comply with Executive Order 2020-03, which requires state agencies to reduce unnecessary and outdated rules. Revisions will also correct formatting and grammatical errors, as well as align policy with current business practices.

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Health Care Authority

Serving Oklahomans  
through SoonerCare

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