



**Kevin Corbett** | Chief Executive Officer

**J. Kevin Stitt** | Governor

**I/T/U Public Notice 2023-02**

February 24, 2023

**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 **March 7<sup>th</sup>, 2023, 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**

### **POLICY UPDATES:**

To further the agency's commitment to meaningful consultation with Tribal partners, all proposed policy revisions will be provided at the start of the consultation when they are available. An I/T/U public notice advised of the below proposed rule, state plan, and waiver revisions will be issued at least 60 days prior to their submission, but no less than 14 days (limited to abnormal circumstances). The agency strives to keep Tribal partners abreast of any exigent circumstances that may arise and cause timeframes to be updated or shortened.

In addition, the agency's website houses a policy changes blog that is dedicated to Native American Consultation. This [blog page](#) allows for comments/questions from providers and members to be submitted to the Agency and become part of the official record. All comments received are considered during the policy making process. The policy updates that are presented during this Tribal Consultation meeting will be officially posted for I/T/U provider and member review during the consultation period. To ensure that you stay informed of proposed policy changes, please sign up for the [web alert](#) option. These alerts will be sent out to all subscribers whenever any new proposed policy changes are posted for public comment.

**Copayment Exemption for Expansion Adults** — The Affordable Care Act (ACA) requires states to cover preventive services for expansion adults without any cost sharing. The proposed rules will update the list of services exempted from copayments to ensure the ACA requirement is reflected in the rule.

**Anticipated Tribal Impact:** *Direct; AI/ANs are already exempt from co-payments due to ARRA law. ITUs that provide preventive care services and charge co-pays to non-AI/ANs will no longer be able to charge a co-pay.*

### **Proposed Emergency Rule Timeline:**

60-day Tribal Consultation Period: Feb. 24 – Apr. 25, 2023

15-day Public Comment Period: Feb. 24 – Mar. 13, 2023

Tribal Consultation: Mar. 7, 2023

MAC Meeting: May 4, 2023

OHCA Board Meeting: May 17, 2023

Requested Effective Date: July 1, 2023

**Substance Abuse Screening Coverage and Reimbursement in Primary Care Settings** — The Oklahoma Health Care Authority (OHCA) will seek approval to allow reimbursement for drug and



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alcohol screenings that are performed in primary care settings. Covering these screenings in the primary care setting will assist in supporting existing Screening, Brief Intervention, and Referral to Treatment for Substance Use (SBIRT) initiatives.

**Anticipated Tribal Impact:** *Direct; ITUs that provide this service will bill under their outpatient contract with OHCA.*

**Proposed State Plan Amendment Timeline:**

**30-day** Tribal Consultation Period: Feb. 24 – Mar. 26, 2023

Public Comment Period: Pending

Tribal Consultation: Mar. 7, 2023

Requested Effective Date: Apr. 1, 2023

**Enhanced Payment for Vocational & Day Services Provided in Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)** — As per SB1074, the Oklahoma Health Care Authority (OHCA) will request federal approval to implement an enhanced payment program for intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) that offer community and vocational services or day program services or both. The purpose of the enhanced payment is to offset costs incurred by the ICFs/IID in these services as these services are currently funded by donations/charity. The enhanced payment will be in addition to all other reimbursement from the OHCA.

**Anticipated Tribal Impact:** *None; currently there are no ITUs contracted as an ICF/IID facility.*

**Proposed State Plan Amendment Timeline:**

**30-day** Tribal Consultation Period: Feb. 24 – Mar. 26, 2023

Public Comment Period: Feb. 24 – Mar. 26, 2023

Tribal Consultation: Mar. 7, 2023

Requested Effective Date: May 1, 2023

**Doula Services** — The Oklahoma Health Care Authority (OHCA) will seek approval of a federal and state authority to cover doula services. A doula, or birth worker, is a trained professional who provides emotional, physical, and informational support during the prenatal, labor, delivery, and postpartum periods. Doula services are non-clinical and do not provide medical care and will not replace the services of licensed and trained medical professionals including, but not limited to, physicians, physician assistants, advanced practice registered nurses, and certified nurse midwives. A referral from a licensed medical provider (physician, physician's assistant (PA), obstetrician, certified nurse midwife) is required. OHCA will require doulas to be at least 18 years of age and to be certified by one of the Agency-recognized certifying organizations. Members will have eight



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doula visits, including one for labor and delivery care. Doula services provided to American Indian/Alaskan Native (AI/AN) members by qualified Indian Health Service, tribal government(s), or urban Indian health program (I/T/U) doula providers will be reimbursed the Office of Management and Budget (OMB) rate, per the current State Plan methodology.

**Anticipated Tribal Impact:** *Direct; ITUs providing Doula services will be reimbursed at the OMB rate.*

**Proposed State Plan Amendment Timeline:**

**30-day** Tribal Consultation Period: Feb. 24 – Mar. 26, 2023

Public Comment Period: Feb. 24 – Mar. 26, 2023

Tribal Consultation: Mar. 7, 2023

Requested Effective Date: Jul. 1, 2023

**Proposed Emergency Rule Timeline:**

**30-day** Tribal Consultation Period: Feb. 24 – Mar. 26, 2023

15-day Public Comment Period: Feb. 24 – Mar. 13, 2023

Tribal Consultation: Mar. 7, 2023

MAC Meeting: May 4, 2023

OHCA Board Meeting: May 17, 2023

Requested Effective Date: July 1, 2023

**Signature Requirements Disaster-Relief Request** — Effective March 1, 2020, signature requirements for pharmacy counseling related to the dispensing of drugs will be waived for the duration of the COVID-19 Public Health Emergency ending on May 11, 2023.

**Anticipated Tribal Impact:** *Direct; ITUs billing for this service.*

**Disaster-Relief State Plan Amendment Timeline:**

Requested Effective Date: Mar. 1, 2020 – May 11, 2023

Tribal Notice: Jan. 20, 2023

Submitted to CMS: Jan. 20, 2023

**Private Duty Nursing (PDN) Rate Increase Disaster-Relief & Permanent Request** — Effective January 1, 2023, the base rate for private duty nursing services will be increased from \$32.68/hour to \$40/hour, and the overtime rate for persons with tracheostomies or who are ventilator dependent will be increased from \$40/hour to \$48.92/hour. These rates are for the duration of the PHE. After the expiration of the PHE, the State will seek to keep these increased rates in effect.

**Anticipated Tribal Impact:** *None; currently there are no ITUs contracted for this service.*



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**Disaster-Relief State Plan Amendment Timeline:**

Requested Effective Date: Jan. 1, 2023 – May 11, 2023

Tribal Notice: Jan. 20, 2023

Submitted to CMS: Jan. 20, 2023

**Proposed Permanent State Plan Amendment Timeline:**

**30-day** Tribal Consultation Period: Feb. 24 – Apr. 25, 2023

Public Comment Period: Feb. 24 – Mar. 26, 2023

Tribal Consultation: Mar. 7, 2023

Requested Effective Date: May 1, 2023

**Proposed Emergency Rule Timeline:**

**30-day** Tribal Consultation Period: Feb. 24 – Mar. 26, 2023

15-day Public Comment Period: Feb. 24 – Mar. 13, 2023

Tribal Consultation: Mar. 7, 2023

MAC Meeting: May 4, 2023

OHCA Board Meeting: May 17, 2023

Requested Effective Date: July 1, 2023

**OTHER BUSINESS**

**American Recovery Plan (ARP) Policy Revisions** — *This item was previously presented during the Nov. 2, 2021, Tribal Consultation meeting and now moving forward due to the ending of the public health emergency (PHE).* Agency will pursue time-limited state plan authority to assure coverage and reimbursement without cost sharing for all full-scope Title XIX individuals as well as Title XXI individuals (inclusive of Soon-to-be-Sooners) through September 30, 2024, for the following COVID-19 countermeasures: vaccine administration; testing; treatment including specialized equipment and therapies (including preventive therapies and drugs), pharmacological, non-pharmacological; and treatments for a condition that may seriously complicate COVID-19 treatment. Further, the State will attest that items and services are provided without amount, duration, or scope limitations that would otherwise apply when items and services are covered for purposes other than COVID-19-related treatment.

The SPA will also assure coverage and reimbursement without cost sharing for individuals receiving Family Planning or Tuberculosis through September 30, 2024, for COVID-19 vaccine and vaccine administration.



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As per the Public Readiness and Emergency Preparedness (PREP) Act, the Agency will continue to consider the following providers as qualified to prescribe, dispense, administer, deliver and/or distribute COVID-19 vaccines: pharmacies, pharmacists, pharmacy interns, and other qualified professionals.

The Agency's payment rate for COVID-19 vaccine administration in cases where vaccine administration is separately reimbursable at a fee amount will follow the national Medicare rates, without geographic adjustment, in effect when the service is provided. Vaccines administered to American Indian/Alaskan Native (AI/AN) members by a qualified facility operated by the Indian Health Service, tribal government(s), or urban Indian health program (I/T/U) will be reimbursed the Office of Management and Budget (OMB) rate, per the current State Plan methodology. Reimbursement for COVID-19 diagnostic and screening testing as well as treatment and therapies will be reimbursed per the methodologies established in the State Plan.

**Anticipated Tribal Impact:** *Direct; ITUs providing these services will continue to receive reimbursement until at least September 30, 2024.*

**Proposed Time-limited State Plan Amendment Timeline:**

Requested Effective Date: Mar. 1, 2020 – Sept. 30, 2024

60-day Tribal Consultation Period: Oct. 19, 2021 – Dec. 18, 2021

Requested Effective Date: May 12, 2024

**Independent Clinical Psychologist Services for Adults** – *This item was previously presented during the Nov. 2, 2021, Tribal Consultation meeting and now moving forward due to the ending of the public health emergency (PHE).* The Oklahoma Health Care Authority (OHCA), in coordination with the Department of Mental Health & Substance Abuse Services (DMHSAS), submitted a disaster relief state plan amendment (SPA) to allow adults in the Medicaid program access to services provided by licensed clinical psychologists who can bill independently and are practicing within state scope of practice. Services provided by independently contracted clinical psychologists were previously a State Plan benefit only available to children. The OHCA will pursue a permanent SPA to extend this flexibility and access upon the termination of the public health emergency (PHE).

**Anticipated Tribal Impact:** *None; ITUs bill under their outpatient facility contract.*

**Disaster-Relief State Plan Amendment Timeline:**

Requested Effective Date: Mar. 1, 2020 – May 11, 2023

Submitted to CMS: Mar. 24, 2020

Tribal Notice: Apr. 24, 2020

**Proposed State Plan Amendment Timeline:**



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60-day Tribal Consultation Period: October 19, 2021 – December 18, 2021

Public Comment Period: Feb. 24, 2023 – Mar. 26, 2023

Requested Effective Date: May 12, 2023

**ACIP-recommended Vaccine Administration by Pharmacists** — *This item was previously presented during the Jan. 5, 2020, Tribal Consultation meeting and now moving forward due to the ending of the public health emergency (PHE).* This request will extend the flexibility granted by the DRSPA indefinitely as the DRSPA is set to end with the Public Health Emergency, on May 11, 2023. The Oklahoma Health Care Authority (OHCA) will seek approval of a State Plan amendment (SPA) to continue provisions of the previously approved Disaster Relief SPA allowing for licensed pharmacists to receive the administration fee for vaccines recommended by the Advisory Committee on Immunization Practices (ACIP). Vaccines administered to American Indian/Alaskan Native (AI/AN) members by a qualified facility operated by the Indian Health Service, tribal government(s), or urban Indian health program (I/T/U) will be reimbursed the Office of Management and Budget (OMB) rate, per the current State Plan methodology.

Claims submitted for vaccines and other injections require an order by a contracted physician or midlevel provider. Pharmacists may not be the ordering/prescribing provider for vaccines or their administration as the Agency does not directly contract with this provider type. Pharmacists may bill for this service under a standing order, prescription, or collaboration agreement with a physician.

**Anticipated Tribal Impact:** *Direct; ITUs providing this service with physicians orders will continue to receive reimbursement*

**Disaster-Relief State Plan Amendment Timeline:**

Requested Effective Date: Aug. 24, 2020 – May 11, 2023

Submitted to CMS: Dec. 10, 2020

Tribal Notice: Dec. 22, 2020

**Proposed State Plan Amendment Timeline:**

60-day Tribal Consultation Period: Dec. 22, 2020 – Feb. 20, 2021

Public Comment Period: Feb. 24, 2023 – Mar. 26, 2023

Requested Effective Date: May 12, 2024

**Naloxone** — *No policy changes will be sought for this request as current federal and state authority are sufficient.* The Oklahoma Health Care Authority (OHCA) will seek a standing order to allow pharmacists to fill, dispense, and be reimbursed for naloxone (name brand Narcan) for SoonerCare members. Members will be able to receive naloxone at their pharmacy without having to first get a



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prescription from their physician. The pharmacist can use the standing order as a “blanket prescription”.

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