

MIKE FOGARTY  
CHIEF EXECUTIVE OFFICER



MARY FALLIN  
GOVERNOR

STATE OF OKLAHOMA  
OKLAHOMA HEALTH CARE AUTHORITY

I/T/U 2011-04

April 19, 2011

**RE: Tribal Consultation on Proposed Rule, State Plan, and Waiver Changes**

Dear Tribal Representative:

The Oklahoma Health Care Authority would like to request your input regarding proposed rule, state plan, and waiver changes. The proposed rule changes will be presented to the Medical Advisory Committee on May 19th.

Due to SoonerCare program changes and changes in federal laws, we are seeking to amend our rules related to exemptions of certain tax credits in eligibility determinations, clarification of our physical, occupational, and speech therapy rules, and Insure Oklahoma cost-sharing requirements for Native Americans. A summary of all the proposed changes is attached for your review.

We have scheduled a face-to-face tribal consultation meeting on these proposed changes for 11 am on May 16 at OHCA offices in Shepherd Mall. This meeting is meant to provide a forum for you to express your thoughts on the proposed changes and ask any questions you might have.

You may also review these proposed changes online and comment on them as part of our new online tribal consultation process. To do this, please visit [www.okhca.org/NACP](http://www.okhca.org/NACP).

The OHCA is committed to active communication with Tribal Governments during the OHCA decision-making and priority-setting process and therefore keeps you apprised of all proposed policy changes. If you have any questions or comments about the proposed changes, please contact Trevlyn Cross, Director of SoonerCare Indian Health Unit. She can be reached at 405-522-7303 or via email at [Trevlyn.Cross@okhca.org](mailto:Trevlyn.Cross@okhca.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Garth L. Splinter, M.D.", with a stylized flourish at the end.

Garth L. Splinter, M.D.  
State Medicaid Director

## PROPOSED RULE CHANGE SUMMARIES

**11-02 Tax Credit Exemption**— The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 requires state Medicaid agencies to disregard federal tax refunds or advance payments with respect to refundable tax credits as income and as resources for purposes of determining eligibility. To bring Agency policy in compliance with this law, eligibility rules and income guidelines are revised to eliminate consideration of the Earned Income Tax Credit, which is the only refundable tax credit currently counted for eligibility purposes.

**11-04 PT/OT/ST Clarification**— PT/OT/ST rules are revised to ensure clarity. Current PT/OT/ST rules restrict services by individual providers to children, though adults may receive such therapy services in an outpatient hospital setting. Changes are made to clarify that there is no coverage for adults for services rendered by individually-contracted providers, but there is coverage for adults in an outpatient hospital setting.

**11-05 Insure Oklahoma—Native American Cost-Sharing**— Insure Oklahoma cost-sharing rules are revised to comply with Federal law on Native American cost-sharing exemptions. Native Americans adults are exempt from Insure Oklahoma—Individual Plan co-pays or premiums when they receive services provided by I/T/U providers or through referral by contract health services. Native American children are exempt from cost-sharing regardless of whether they receive services provided by I/T/U providers or through referral by contract health services.

### Proposed State Plan Changes

**Prohibition of payment to entities outside of the United States**—It is the intent of the State to submit a state plan amendment to comply with Section 6505 of the Affordable Care Act which amends section 1902(a) of the Social Security Act (the Act). This provision prohibits any payments for items or services provided under the State plan or under a waiver to any financial institution or entity located outside of the United States (U.S.).

For purposes of implementing this provision, section 1101(a)(2) of the Act defines the term “United States” when used in a geographical sense, to mean the “States.” Section 1101(a)(1) of the Act defines the term “State” to include the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa, when used under Title XIX.

The phrase, “items or services provided under the State plan or under a waiver” refers to medical assistance for which the State claims Federal funding under section 1903(a) of the Act.

**Provider Screening**—It is the intent of the State to submit a state plan amendment to comply with Section 6401 of Public Law 111-148 which amends section 1902(a) of the

Social Security Act (the Act). This provision requires potential Medicaid and/or CHIP providers to undergo more rigorous background checks to be completed prior to their enrollment in these programs. Additionally, the law requires that a web-based system be established to allow the public and government agencies to search for providers terminated from the Medicaid program.

Based on the level of risk associated with different provider and supplier types, CMS will apply three levels of screening tools: (1) "limited risk" providers will have enrollment requirements, license, and database verifications; (2) those in the "moderate risk" category will have those verifications plus unscheduled site visits; and (3) high risk providers and suppliers will have verifications, unscheduled site visits, and fingerprint-based criminal history record checks of law enforcement repositories.

## **Proposed Changes/Updates to Waivers**

### **Medically Fragile Program**

#### **Med Fragile Proposed Amendment**

- Increase projected waiver and institutional costs
- Increase enrollment capacity Y 2 and 3 (SFY 2012 and 2013)?
- Other
  - Develop waiting list process
  - Add Institutional Transition Service
  - Amend pharmacy co-pays v. 2.0

#### **Amend My Life; My Choice**

- Increase # to enroll as actual enrollment is greater than anticipated
- Increase projected waiver costs estimate
- Add assisted living services and Private Duty Nursing

#### **Amend Sooner Seniors**

- Amend # to enroll as actual enrollment is less than anticipated
- Increase projected waiver costs estimate
- Add assisted living services and Private Duty Nursing