

MINUTES OF A REGULARLY SCHEDULED BOARD MEETING
OF THE OKLAHOMA HEALTH CARE AUTHORITY BOARD
Held at Oklahoma Health Care Authority
Oklahoma City, Oklahoma
May 8, 2008
1:30PM

Manner and Time of Notice of Meeting: A public notice was placed on the front door of the Oklahoma Health Care Authority on May 6, 2008.

Pursuant to a roll call of the members, a quorum was declared to be present, and Chairman Roggow called the meeting to order at 1:37pm.

BOARD MEMBERS PRESENT:

Member Armstrong, Member Miller,
Member Langenkamp, Governor
Anoatubby, Member McFall, Vice-
Chairman Hoffman and Chairman
Roggow

OTHERS PRESENT

Brent Wilborn, OKPCA
Tres Savage, Capitol News
Anne Roberts, OICA
Ron Graham, College of Pharmacy
Bill Lance, Chickasaw Nation

DISCUSSION AND POSSIBLE VOTE ON APPROVAL OF BOARD MINUTES OF THE
REGULARLY SCHEDULED BOARD MEETING HELD APRIL 10, 2008

The Board routinely reviews and approves a synopsis of all its meetings. The full-length recordings of the meetings of the Board are retained at the Board Offices and may be reviewed upon written request.

MOTION:

Member McFall moved for approval of the April 10, 2008 board minutes as presented. Member Armstrong seconded.

FOR THE MOTION:

Member Armstrong, Member Miller,
Member Langenkamp, Governor
Anoatubby, Member McFall, Vice-
Chairman Hoffman, and Chairman
Roggow

FINANCIAL UPDATE

Anne Garcia, CFO

Ms. Garcia stated that the revenues for OHCA through March, accounting for receivables, were **\$2,229,519,274** or **.0% under** budget. The expenditures for OHCA, accounting for encumbrances, were **\$2,181,436,724** or **.6% under** budget. Ms. Garcia reported that the state dollar budget variance through March is **\$13,750,245 positive**. In addition to the SFY08 variance, the agency has **\$10,189,326** in prior year carryover. These funds are being held in reserve for the FY09 budget.

The budget variance is primarily attributable to the following (in millions):

Expenditures:	
Medicaid Program Variance	(2.9)
Administration	8.8
Revenues:	
Taxes and Fees	2.4
Drug Rebate	(.1)
Overpayments/Settlements	1.0
Other	4.5

MEDICAID DIRECTOR'S UPDATE/INSURE OKLAHOMA/OEPIC UPDATE

Becky Pasternik-Ikard

Ms. Ikard stated that we have experienced another decline in enrollment numbers which now are 601,708 for March 2008. Since Dec 2007, 43,398 members have terminated for lack of citizenship and identity. As explained last month, an analysis has shown that the demographics of those losing eligibility for those reasons mirrors the demographics of our overall population and this continues. About 35% of those losing eligibility last month have returned and the highest reopen rate is for January with 56% of those returning. Ms. Ikard stated that the Insure Oklahoma enrollment now exceeds 10,000 - May enrollment for the program is 10,766 and looking back one year ago, we were at 2466. The individual plan has now been operational for over a year and if you recall that for that first month which was March 2007 there were 19 enrollees representing 7 counties, and today there are 2,639 enrollees from all 77 counties. Ms. Ikard reported that provider services has completed spring provider training in Durant and OKC with Tulsa coming up followed by Lawton at the end of the month.

LEGISLATIVE UPDATE

Nico Gomez

Mr. Gomez reported that the Oklahoma Legislature is currently tracking a total of 990 active bills. OHCA is currently tracking 58 active bills and 3 carry-over bills for a total of 63 bills. They are broken down as follows: 1 OHCA Request, 17 Direct Impact, 9 Appropriations, 15 Indirect, 7 Employee Interest, 5 Carry Over and 9 Governor Signed. Mr. Gomez noted that Thursday May 1 was the internal House deadline for rejection of Senate amendments. The Senate has no such deadline. First Conference Committee Reports in the House must be filed by May 13th. The Senate does not have a filing deadline for conference committee reports. Sine Die will be at 5pm on May 23rd due to Memorial Day.

ITEM 4/PRESENTATION ON FOCUS ON EXCELLENCE

Ivoria Holt

Ms. Holt stated that the Focus on Excellence is an incentive program for quality improvements in nursing facilities. The 1% participation bonus that was given initially in July 07 incentivized 265 facilities to participate in the program. Ms. Holt gave a power point presentation that consisted of Quality Profile Results; Distribution Breakdown of Reimbursement Points; Number of Stars received by a Facility; Quarter Results; and Where are We Going? For detailed information, see handout of presentation.

ITEM 5/REPORTS BY BOARD COMMITTEES

Senator Miller reported that the Audit/Finance Committee did not meet but will meet next month.

Member Langenkamp reported that the Legislative Committee did meet and discussed the status of various bills.

Mr. Armstrong stated that the Rules Committee did not meet.

ITEM 6a/RECOMMENDATION REGARDING CONFLICTS OF INTEREST PANEL CONCERNING RECOMMENDATIONS OF THE DRUG UTILIZATION REVIEW BOARD

Howard Pallotta, Director of Legal Services

Mr. Pallotta stated the Conflicts of Interest Panel met with regards to Items 6(DUR), Item 7(Rules), and Item 8(contracts) and found no conflicts.

ITEM 6b/CONSIDERATION AND VOTE TO ADD THE THERAPEUTIC CATEGORY OF NARCOTIC ANALGESICS TO THE PRODUCT BASED PRIOR AUTHORIZATION PROGRAM UNDER 63 OKLAHOMA STATUTES 5030.5

Nancy Nesser, J.D., D.Ph., Pharmacy Director

Dr. Nesser presented the information on the Tier 1, Tier 2, Tier 3, and Oncology Only narcotics. She stated that the Drug Utilization Review Board recommends adding the Narcotic Analgesics to the Product Based Prior Authorization Program.

MOTION:

Member McFall moved for approval of Item 6b as presented. Member Langenkamp seconded.

FOR THE MOTION:

Member Armstrong, Member Miller, Member Langenkamp, Governor Anoatubby, Member McFall, Vice-Chairman Hoffman, and Chairman Roggow

ITEM 7A/CONSIDERATION AND VOTE UPON DECLARATION OF EMERGENCY RULES A, B, & C

Cindy Roberts, Director of Program Integrity and Planning

Ms. Roberts presented the following rules for consideration of declaration of emergency:

I. Items subject to the Administrative Procedures Act (Emergency)

A. CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

Subchapter 18. Program of All-Inclusive Care for the Elderly
OAC 317:35-18-10. [AMENDED]
(Reference APA WF # 08-01)

FINDING OF EMERGENCY: The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions which would allow for the involuntary disenrollment of a participant in the Program of All-Inclusive Care for the Elderly (PACE) program based on the threatening or disruptive behavior or actions of the participant's family or caregiver. Emergency approval is also requested for rule revisions which would allow for involuntary disenrollment of a PACE program participant if the participant's caregiver or guardian fails to pay or make satisfactory arrangements to pay, any premium due the PACE organization. These revisions are required by the Center for Medicare and Medicaid Services (CMS) in order for CMS to approve the Waiver Request for the PACE program.

B. CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

Subchapter 5. Individual Providers and Specialties
Part 6. Inpatient Psychiatric Hospitals
OAC 317:30-5-95.33. [AMENDED]
(Reference APA WF # 08-07)

FINDING OF EMERGENCY: The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions which will increase the timeframe within which a provider of inpatient behavioral health services must review an individual plan of care (IPC) for children residing in their facility. This change will allow providers a more reasonable time frame to complete reviews which in turn will help bring providers who are making a good faith effort to file timely into compliance. Currently, if providers do not review the plan of care on the seventh day, they are subject to a partial per diem recoupment and can be required to complete additional updates to the plan of care in addition to the original review and documentation. Requiring the provider to complete the additional update when the provider falls short of the seven day deadline, does not improve quality of care but detracts from the care given in that it only increases the administrative burden placed upon the treatment team which in turn reduces the amount of time the provider is able to allow for actual treatment and consultation. Additional time constraints placed upon a provider's already laden schedule limits individuals' access to care in that the provider's window of availability within which to see and treat patients is reduced.

C. CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

Subchapter 5. Individual Providers and Specialties
Part 21. Outpatient Behavioral Health Services
OAC 317:30-5-241. [AMENDED]
(Reference APA WF # 08-08)

FINDING OF EMERGENCY: The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to comply with directives from our federal partner, the Centers for Medicare and Medicaid Services. The revisions would remove language referring to the reimbursement methodology for Program of Assertive Community Treatment (PACT) services. CMS is requiring that PACT services no longer be reimbursed using a bundled, per diem rate but as individual, fee for service rates billed in fifteen minute increments.

MOTION:

Governor Anoatubby moved for declaration of emergency for Rules A, B and C. Vice-Chairman Hoffman seconded.

FOR THE MOTION:

Member Armstrong, Member Miller, Member Langenkamp, Governor Anoatubby, Member McFall, Vice-Chairman Hoffman, and Chairman Roggow

ITEM 7B/CONSIDERATION AND VOTE UPON DECLARATION OF SUBSTANTIVE RULE CHANGES FOR RULE A, B, & C

Cindy Roberts, Director of Program Integrity and Planning

Ms. Roberts presented the following rules for consideration of substantive rule changes.

A. CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

Subchapter 18. Program of All-Inclusive Care for the Elderly
OAC 317:35-18-10. [AMENDED]
(Reference APA WF # 08-01)

SUMMARY: Agency rules are revised to allow for involuntary disenrollment of PACE program participants based upon certain actions of the participant's caregiver or guardian. The requested change is based on the experience of the PACE programs whose ability to safely and effectively care for participants is potentially compromised by the behavior and decisions of the participant's family and/or caregiver that jeopardizes the health or safety of others. The enrollment agreement includes in writing the terms of enrollment in PACE and the responsibilities of the participant and their family/caregivers at enrollment and annually thereafter. All efforts will be made to work with the family/caregiver to rectify situations where the family/caregiver is deemed to be jeopardizing the health or safety of others. It will be the policy of Cherokee Elder Care to initiate an involuntary disenrollment only after the Interdisciplinary Team has determined that involuntary disenrollment is the only available course of action.

B. CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

Subchapter 5. Individual Providers and Specialties
Part 6. Inpatient Psychiatric Hospitals
OAC 317:30-5-95.33. [AMENDED]
(Reference APA WF # 08-07)

SUMMARY: Agency rules are revised to allow for review of individual plans of care in an inpatient setting no less than every nine calendar days in acute care situations and no less than every 16 calendar days in the longer term treatment program or specialty Psychiatric Residential Treatment Facility (PRTF). The original rule allowed for only 7 days in acute care and 14 days in the longer term treatment programs. The intent of the rule is to have the plan reviewed and updated approximately every seven days, not exactly. Currently, the provider is penalized if the plan is not reviewed on the 7th or 14th day. Revisions are suggested in order to allow more flexibility for the providers while still giving credence to the original intent of the rule.

C. CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

Subchapter 5. Individual Providers and Specialties
Part 21. Outpatient Behavioral Health Services
OAC 317:30-5-241. [AMENDED]
(Reference APA WF # 08-08)

SUMMARY: Agency rules are revised to remove language referring to the reimbursement methodology for PACT services. PACT services are currently reimbursed using a per diem rate inclusive of all services provided by the PACT team. The revised methodology would reimburse PACT services using fee for service rates that correlate with each individual service which must be billed in fifteen minute increments. The suggested rule change also updates terminology which reflects recent changes in federal and state law and policy.

MOTION: Member Armstrong moved for approval of Rules A, B, and C as presented. Member McFall seconded.

FOR THE MOTION: Member Armstrong, Member Miller, Member Langenkamp, Governor Anoatubby, Member McFall, Vice-Chairman Hoffman, and Chairman Roggow

ITEM 8a/CONSIDERATION AND VOTE TO AUTHORIZE EXPENDITURE OF FUNDS TO PROVIDE CONSULTANT SERVICES FOR THE MMIS REPROCUREMENT

Beth VanHorn, Director of Legal Services

Ms. VanHorn presented the background, scope of work, length of contract period, contract amount and procurement method. Ms. VanHorn recommended Board approval for OHCA to procure a contract for MMIS consultant services as discussed above.

MOTION: Vice-Chairman Hoffman moved for approval of Item 8a. Member Langenkamp seconded.

FOR THE MOTION: Member Armstrong, Member Miller, Member Langenkamp, Governor Anoatubby, Member McFall, Vice-Chairman Hoffman, and Chairman Roggow

ITEM 9/DISCUSSION ITEM - PROPOSED EXECUTIVE SESSION AS RECOMMENDED BY THE DIRECTOR OF LEGAL SERVICES AND AUTHORIZED BY THE OPEN MEETINGS ACT, 25 OKLA. STATE.§307(B)(1),(4)&(7)

Howard Pallotta, Director of Legal Services

MOTION: Member Armstrong moved for Executive Session. Member McFall seconded.

FOR THE MOTION: Member Armstrong, Member Miller, Member Langenkamp, Governor Anoatubby, Member McFall, Vice-Chairman Hoffman, and Chairman Roggow

ITEM 10/CONSIDERATION AND VOTE TO SETTLE EVANS ET AL.V. Fogarty et al. CIV-01-0252, and CIV-01-0557HE CASE

Howard Pallotta, Director of Legal Services

Mr. Pallotta stated that Item 10 is a consideration and vote to settle the Evans v. Fogarty case. Mr. Pallotta stated that the settlement proposal was discussed during Executive Session and he would ask the Board to approve the settlement as discussed in Executive Session.

MOTION: Member Armstrong moved for approval of proposed settlement agreement as presented in Executive Session. Member McFall seconded.

FOR THE MOTION: Member Armstrong, Member Miller, Member Langenkamp, Governor Anoatubby, Member McFall, Vice-Chairman Hoffman, and Chairman Roggow

Mr. Pallotta cautioned the Board that there is not a settlement yet due to other state level approvals.

NEW BUSINESS

None

ADJOURNMENT

MOTION: Member McFall moved for adjournment. Member Langenkamp seconded.

FOR THE MOTION: Member Armstrong, Member Miller, Member Langenkamp, Governor Anoatubby, Member McFall, Vice-Chairman Hoffman, and Chairman Roggow