
Oklahoma Health Care Authority



§1115(a) SoonerCare Research and Demonstration Waiver Amendment Request

Project Number: 11-W-00048/6

**Submitted
Date**

I. EXECUTIVE SUMMARY

Oklahoma's single state Medicaid agency, the Oklahoma Health Care Authority (OHCA), operates the §1115(a) SoonerCare Research and Demonstration Waiver, which was initially approved in 1995. The waiver authorizes the SoonerCare Choice and Insure Oklahoma (IO) demonstrations.

With this amendment request, OHCA seeks approval of the following amendments to the demonstration for the 2016 – 2018 renewal period:

1. Modify the evaluation design for the existing Insure Oklahoma Employer-Sponsored Insurance (ESI) plan and Individual Plan (IP) to add outcomes reporting; and,
2. Incorporate the Insure Oklahoma Sponsor's Choice Option as outlined below.

Insure Oklahoma Sponsor's Choice Option

Background:

Census data for Oklahoma show 80,000 uninsured American Indians, representing 26.58 % of the total State's uninsured population.¹ With proposed coverage up to 200% of the federal poverty level (FPL), OHCA projects that this amendment to the program could bring additional enrollment of approximately 50,000 potentially eligible members with an estimated 10,000 signing up in the first year. This will provide Medicaid reimbursement for premium assistance, and afford care to American Indians in the State who have no other form of coverage.

The United States has a federal trust responsibility to provide health care coverage to American Indians and Alaska Natives (AI/AN) at no cost. While the new Health Insurance Marketplaces provide premium tax credits to individuals below 200% of FPL and AI/ANs are eligible for special cost-sharing reductions when they enroll in those plans, the Marketplaces do not exempt AI/ANs from paying premiums as does the Medicaid program, 42 U.S.C. 1396o(j). Because AI/ANs have a right to receive care through the Indian health system at no cost, they have been reluctant to enroll in the Marketplaces because of the cost of premiums, even when the cost of those premiums has been reduced through advanced payment of premium tax credits. Recent data from CMS demonstrate that only 60,000 AI/ANs have enrolled in the Exchanges nationally, as compared to a total AI/AN population of nearly 2 million. As a result, the Marketplaces have not relieved the stress on the Indian health system, which is underfunded yet required to provide services to AI/ANs, including AI/ANs eligible for Medicaid. This proposed waiver option is required to ensure that the Indian health system can provide access to quality care to AI/ANs through the Medicaid program in Oklahoma. Further, Federal and state governments share the same goals: to improve the health of citizens and to decrease the number of uninsured, especially those with health disparities. The Centers for Medicare and Medicaid Services have formalized this emphasis with the three part aim – achieving better care for beneficiaries, better health for communities and lowering costs through health care system improvements. The Sponsor's Choice Option authorized by this waiver amendment will help Oklahoma to accomplish these same goals.

¹ 2014 Census Bureau data for Oklahomans identifying as NA alone.

CMS's State Medicaid Director's Letter # 01-024 states, "As set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions, it has been long recognized that the United States has a unique relationship with Tribal Governments. This government-to-government relationship recognizes the right of Tribes to tribal sovereignty, self-government and self-determination."

Whereas Congress has declared "it is a major national goal of the United States to provide the quantity and quality of health services which will permit the health status of Indians to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services" (25 U.S.C. §1601); 25 U.S.C. § 1642, grants tribes new authority to purchase health care coverage using federal health care resources, as amounts are made available under law. The State desires to comport with the intent of the federal government to supply American Indians and Alaska Natives with access to quality health care. It is the intent of the OHCA to add a new Sponsor's Choice Option to the existing Insure Oklahoma ESI program for citizens served through Indian Health Service, Tribal Facilities and Urban Indian Clinics (I/T/U).

Proposed Effective Date:

OHCA recognizes that CMS requires amendment requests to be made at least 120 days in advance of planned implementation and that there is no regulatory timeframe for amendment approvals. Therefore, OHCA submits this amendment within specified requirements and respectfully requests an amendment be approved by CMS no later than October 1, 2015, in order for actual implementation of coverage of individuals in the Insure Oklahoma Sponsor's Choice Option to take effect on or after January 1, 2016.

The October 1, 2015, approval date prepares OHCA for the federal open enrollment period for Health Insurance Marketplaces on November 1, 2015. OHCA is already approved for account transfers to the federal hub for those individuals who are not determined eligible for OHCA programs. Applicants who are not found eligible for Insure Oklahoma ESI, IP or Sponsor's Choice will have their information electronically submitted as an account transfer to the hub. This ensures seamless access to other insurance affordability programs as well as advanced premium tax credits and cost-sharing reductions, if applicable. For Insure Oklahoma, processes for approving businesses in accordance with qualifying criteria, health plans and individual applications are already in place. However, systems enhancements to convert Insure Oklahoma applications to the online eligibility process and automate business functions are under way to meet strategic planning objectives.

In additional approval of this amendment, OHCA will seek concurrent approval of emergency rules to obtain state authority on a timeline that includes an August 12, 2015, OHCA Board of Directors meeting and allows for enrollment of tribal sponsors, plans and individual members commencing on or after September 1, 2015.

II. PROPOSED CHANGES for SPONSOR'S CHOICE OPTION

OHCA proposes the following changes to the approved Project Number: 11-W-00048/6 2016-2018 Special Terms and Conditions (STC).

1. Amend the IO Demonstration STCs to add provisions for qualified sponsors for the Insure Oklahoma Sponsor's Choice option.

To qualify for participation, a sponsor must:

- be a tribally-operated health facility in Oklahoma; or
- be an Indian Health Service unit in Oklahoma; or
- be an Urban Indian Health Service unit in Oklahoma; and
- sponsor a qualified individual before they may enroll in the Insure Oklahoma Sponsor's Choice program.

2. Amend the Insure Oklahoma Demonstration Eligibility populations at STC #21 to add:

- Individuals sponsored for enrollment in the Insure Oklahoma Sponsor's Choice Option

To qualify for participation, a member must:

- be an uninsured individual not enrolled in any comprehensive health coverage or Medicaid, Medicare, Tricare, Veterans Administration; and
- be sponsored by a qualified sponsor ; and
- meet income guidelines up to and including 200% of the FPL; and
- be an United States Citizen or qualified alien; and
- be an Oklahoma Resident; and
- be age 19 through 64.

Coverage is also available for dependent spouses and children. Dependent children may be eligible in households with income between 186% through 200% of the FPL. Eligibility criteria for dependent coverage are as follows:

- Be a dependent of Sponsor's Choice member; and
- be sponsored by a participating sponsor; and
- be an United States Citizen or qualified alien; and
- be an Oklahoma Resident; and
- be age 19 through 64 for dependent spouses.

3. Amend the Insure Oklahoma Premium Assistance and Cost Sharing STC Section VI to add provisions that outline cost-sharing requirements for the Insure Oklahoma Sponsor's Choice Option as follows:

Zero Cost Sharing (enrollment fees, premium charges, deductibles, copayment, cost-sharing or similar charges) for Indians in accordance with 42 CFR §447.56(a)(1) (x), Section 5006(a) of the ARRA of 2009 and 25 U.S.C. § 1396o (1)

4. Amend the CMS Expenditure Authority to add the Sponsor's Choice Population.

5. Amend the Insure Oklahoma STC Section VI, #29 to change the title to include Sponsor's Choice qualifying plans and to add criteria for Certification of Qualifying Health Plans for the Insure Oklahoma Sponsor's Choice Option. Criteria include:

- Sponsor's Choice Qualifying Health Plans must promptly pay the OMB Encounter Rate to I/T/Us for services rendered to sponsored individuals whether or not the I/T/U is

enrolled as a participating provider in the Sponsor's Choice Qualifying Health Plan as a condition of certification as a Sponsor's Choice Qualifying Health Plan.

- Sponsor's Choice Qualifying Health Plans must accept referrals and premium payments from the I/T/U on a bundled basis on behalf of all of the individuals sponsored by the Qualified Sponsor's Choice sponsor.

III. MODIFICATION OF EVALUATION DESIGN

With the addition of the Insure Oklahoma Sponsor's Choice Option, the OHCA will add these hypotheses for the 2016-2018 demonstration extension periods.

1. Determine the net increase in Medicaid payments made to qualifying Insure Oklahoma Sponsor's Choice sponsors between 2016 and 2018.
2. Determine whether qualifying Insure Oklahoma Sponsor's Choice sponsors are able to maintain and/or increase their staffing due to participation in Sponsor's Choice between 2016 and 2018.
3. The health outcomes of members served in the Insure Oklahoma Sponsor's Choice Option and served at an ITU will improve between 2016 and 2018. Specifically, measures defined by the National Quality Forum related to commercial tobacco use, commercial tobacco cessation, obesity, diabetes, and hypertension will be used to study program effectiveness. Measureable data will be provided through the commercial insurer and their Health Information Exchange partners.

IV. BUDGET NEUTRALITY

The OHCA provides to CMS updated budget neutrality for the Insure Oklahoma Sponsor's Choice Option. Please refer to the attached budget neutrality documents, which reflect increased enrollment in Insure Oklahoma with the addition of this option, and corresponding expenditures.

The budget neutrality projections in this amendment take into account all previous CMS-approved amendments and modifications to the demonstration.

V. PUBLIC NOTICE

In accordance with STC #16, *Public Notice, Tribal Consultation and Consultation with Interested Parties*, Oklahoma has provided meaningful public notice to the Oklahoma American Indian Tribes by providing a tribal consultation forum and comment period regarding this proposed amendment.

The OHCA and the Oklahoma State Department of Health on February 4, 2015, hosted an ad hoc tribal consultation meeting to discuss the possibility of an Insure Oklahoma tribal coverage option. Participants reviewed the current Insure Oklahoma employer-sponsored insurance plan, which offers commercial insurance to enrollees. Improving access to care and addressing uncompensated care at Indian health care facilities were identified as some of the objectives this initiative could accomplish. Some 68 attendees, including representatives from Indian Health Service, Urban Indian clinics, sovereign nations and the Inter-Tribal Health Board were in attendance.

The discussion continued with formal Tribal Consultation on March 3, 2015, also at the OHCA. Copies of the email invitations to both of these meetings are attached as **Exhibit X**.

At the March 3, 2015, meeting, discussion continued to be very favorable, and with momentum building, the participants determined that an intensive work session to develop the actual waiver request would be helpful. Interested parties and state representatives agreed to meet on March 16 and 17, 2015, to begin drafting documents for possible submission to CMS. Collaborative work continued on the amendment draft in order to prepare a document for consideration at the May 5, 2015, Tribal Consultation meeting.

A Resolution supporting the Insure Oklahoma Sponsor's Choice Option was adopted by the Inter-Tribal Council of the Five Civilized Tribes on April 10, 2015, and is included as **attachment X**

A summary of the proposed Insure Oklahoma Sponsor's Choice Option was included in the Tribal Consultation meeting on May 5, 2015. Comments were as follows:

Comment: How receptive is CMS to this waiver amendment?

Response: They have been very responsive. They have already seen a draft and sent us comments informally. They want to help make it happen. I am very optimistic. I believe they are working with us to help get an approvable document.

Comment: Can I have a copy of the latest draft?

Response: Yes, we will email them today. We are also going to post the draft, including the resolution of support and the white paper, on the Tribal Consultation web page tomorrow. The draft will be posted for 30 days of comment. After that, the Health Department and OHCA leadership will review the document. We will also submit the final version to the Governor's office before sending to CMS.

Comment: When will we hear back on our draft?

Response: We will send CMS our rough draft today, to get more comments. We have a special call about this draft proposal scheduled for May 21, 2015. We are trying to do the leg work early to expedite approval.

Comment: Will you let us know if there is anything else we can do to help?

Response: Yes, thank you. As Dana indicated earlier, this has been a wonderful collaboration of the state agencies and the tribal nations. Thank you for all your work in going through this process.

Refer to the **attached** May 5, 2015 **Tribal Consultation agenda and sign-in sheet** for verification of the discussion.

A draft of the waiver amendment and rules was posted to the OHCA web page for public comment June 12, 2015 through July 13, 2015. In summary, the comments reflected...

The emergency rules to implement the Insure Oklahoma Sponsor's Choice Option were presented to the Medical Advisory Committee on July 16, 2015. Rules will go to the OHCA

Board of Directors on August 12, 2015. The rules must be signed by the Governor to become effective.

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