

Oklahoma Health Care Authority

The Oklahoma Health Care Authority (OHCA) values your feedback and input. It is very important that you provide your comments regarding the proposed rule change by the comment due date. Comments can be submitted on the OHCA's [Proposed Changes Blog](#).

OHCA COMMENT DUE DATE: January 16, 2018

The proposed policy was submitted to the Medical Advisory Committee on May 18, 2017 as an emergency policy change. The proposed policy was presented at the March 7, 2017 Tribal Consultation. These rules are currently in effect as Emergency rules but must be promulgated through the permanent rulemaking process. The proposed Permanent rule change is scheduled to be presented to the OHCA Board of Directors on February 8, 2018.

Reference: APA WF #17-04B

SUMMARY:

MFP PRTF Wraparound Services Demonstration – Living Choice rules are amended to replace the term Intermediate Care Facility for Mentally Retarded (ICF/MR) with Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID). Oklahoma's MFP Demonstration for Psychiatric Residential Treatment Facility (PRTF) is added to transition youth, ages 16 through 18, who have been in an inpatient PRTF for 90 or more days during an episode of care.

LEGAL AUTHORITY

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 USC § 18001

RULE IMPACT STATEMENT:

**STATE OF OKLAHOMA
OKLAHOMA HEALTH CARE AUTHORITY**

TO: Tywanda Cox
Federal and State Policy

FROM: Traylor Rains-Sims
Oklahoma Department of Mental Health & Substance Abuse Services

SUBJECT: Rule Impact Statement
APA WF # 17-04B

A. Brief description of the purpose of the rule:

Living Choice rules are amended to replace the term Intermediate Care Facility for Mentally Retarded with Intermediate Care Facility for Individuals with Intellectual Disabilities. Rules are also revised to add a fourth population to be served in the Money Follows the Person (MFP) demonstration. The MFP demonstration for Psychiatric Residential Treatment Facility (PRTF) transitioning will focus on youth, ages 16 through 18, who have been in an inpatient psychiatric residential facility for 90 or more days during an episode of care and outline eligibility criteria. The goal is to improve health outcomes and reduce the number of days in out-of-home placements for this set of members. **We request that this previously approved emergency rule be promulgated as a permanent rule.**

B. A description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the cost of the proposed rule, and any information on cost impacts received by the agency from any private or public entities:

Youth ages 16 - 18 transitioning out of Psychiatric Residential Treatment Facilities will be affected by the proposed rule in that they will have access to care coordination services that will allow them to successfully transition to the community. No cost impacts have been received by the agency from any private or public entity.

C. A description of the classes of persons who will benefit from the proposed rule:

Youth ages 16 - 18 transitioning out of Psychiatric Residential Treatment Facilities will be affected by the proposed rule in that they have access to care coordination services that will allow them to successfully transition to the community.

D. A description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

There is no probable impact of the proposed rule upon any

classes of persona or political subdivisions.

- E. The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency:

The Agency has determined there are no probable net costs to OHCA as a result of the proposed rules. The Agency anticipates that the proposed changes would result in approximately \$695,739 total federal dollars, \$174,261 state dollars. State share will be paid by the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS).

- F. A determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:

The proposed rule will not have an economic impact on any political subdivision nor will it require the cooperation of any political subdivision in implementing or enforcing the rule.

- G. A determination of whether implementation of the proposed rule will have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

The proposed rule will not have an adverse effect on small businesses as provided by the Oklahoma Small Business Regulatory Flexibility Act.

- H. An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rule:

Throughout the year Agency staff gather relevant information through stakeholder involvement and public forums in order to communicate the planned actions of the Agency concerning rulemaking, as well as other issues. While it is difficult to balance the needs of SoonerCare members with those of the various providers, the Agency proposes rules with each of

these issues and interests considered.

- I. A determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:

The proposed rule should have a positive effect on the public health and safety of SoonerCare members ages 16 - 18 transitioning from a PRTF by ensuring that their transition to the community following their inpatient stay is successful and reduces the overall recidivism rate.

- J. A determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented:

The Agency has determined that the proposed rules will have no detrimental effect on the public health, safety and environment if they are not implemented.

- K. The date the rule impact statement was prepared and if modified, the date modified:

Prepared: March 8, 2017

RULE TEXT

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN- ELIGIBILITY

SUBCHAPTER 23. LIVING CHOICE PROGRAM

317:35-23-2. Eligibility criteria

(a) Adults with disabilities or long-term illnesses, members with intellectual disabilities and members with physical disabilities are eligible to transition into the community through the Living Choice program if they meet all of the criteria in paragraphs (1) through (7) of this subsection.

(1) He/she must be at least 19 years of age.

(2) He/she must reside in ~~an institution (nursing facility or public ICF/MR)~~ a nursing facility or public Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) for at least 90 consecutive days prior to the proposed transition date. If any portion of the 90 days includes time in a skilled nursing facility, those days

cannot be counted toward the 90 day requirement, if the member received Medicare post-hospital extended care rehabilitative services.

(3) He/she must have at least one day of Medicaid paid long-term care services prior to transition.

(4) If transitioning from an out of state institution, he/she must be SoonerCare eligible.

(5) He/she requires at least the same level of care that necessitated admission to the institution.

(6) He/she must reside in a qualified residence after leaving the institution. A qualified residence is defined in (A) through (C) of this paragraph.

(A) a home owned or leased by the individual or the individual's family member;

(B) an apartment with an individual lease, with a locking entrance/exit, and which includes living, sleeping, bathing, and cooking areas over which the individual or the individual's family has domain and control; and

(C) a residence, in a community-based residential setting, in which no more than four unrelated individuals reside.

(7) His/her needs can be met by the Living Choice program while living in the community.

(8) He/she must not be a resident of a nursing facility or ~~ICF/MR~~ICF/IID in lieu of incarceration.

(b) Youth ages sixteen (16) through eighteen (18) are eligible to transition back into the community from a psychiatric residential treatment facility (PRTF) through the Living Choice program if they meet the following criteria:

(1) Have been in a PRTF facility for 90 or more days during an episode of care;

(2) Meet Level 4 criteria on the Individual Client Assessment;

(3) Show critical impairment score of 25 and above on the Problems Subscale or a score of 44 and below on the Functioning Subscales; and

(4) May be in the custody of Oklahoma's Child Welfare Agency or Juvenile Justice Agency.

317:35-23-3. Participant disenrollment

(a) A member is disenrolled from the program if he/she:

(1) is admitted to a hospital, nursing facility, ~~ICF/MR~~, ICF/IID, residential care facility or behavioral health facility for more than 30 consecutive days;

(2) is incarcerated;

(3) is determined to no longer meet SoonerCare financial eligibility for home and community based services;

(4) determined by the Social Security Administration or OHCA Level of Care Evaluation Unit to no longer have a disability

that qualifies for services under the Living Choice program;
or
(5) moves out of state.
(b) Payment cannot be made for an individual who is in imminent
danger of harm to self or others.

DRAFT