

Oklahoma Health Care Authority

It is very important that you provide your comments regarding the proposed rule change by the comment due date. Comments are directed to Oklahoma Health Care Authority (OHCA) Health Policy Unit <http://www.okhca.org/proposed-rule-changes.aspx>

OHCA COMMENT DUE DATE: September 3, 2018

The proposed policy is an Emergency Rule. The proposed policy will be presented at the July 11, 2018 Tribal Consultation. This proposal is scheduled to be presented to the Medical Advisory Committee on July 19, 2018 and presentation to the OHCA Board of Directors is to be determined.

Reference: APA WF 18-02

SUMMARY:

Work and community engagement requirements as a condition of SoonerCare eligibility for adults – The proposed revisions establish work and community engagement requirements as a condition of SoonerCare eligibility for adults who do not meet certain exemptions.

LEGAL AUTHORITY

The Oklahoma Health Care Authority Act, Section 5007 (F)(1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; Gov. Mary Fallin Executive Order 2018-05; Oklahoma HB 2932

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA OKLAHOMA HEALTH CARE AUTHORITY

TO: Tywanda Cox
Federal and State Policy

FROM: Harvey Reynolds
Federal and State Authorities

SUBJECT: Rule Impact Statement
APA WF # 18-02

A. Brief description of the purpose of the rule:

The proposed revisions to eligibility policy establish work and community engagement requirements as a condition of

SoonerCare eligibility for adults age 19 through 50 who do not meet certain exemptions. The revisions outline the activities that meet the requirements, the individuals who are exempt, and the conditions a member must meet to be enrolled after losing eligibility for non-compliance. The revisions also inform a member of their appeal rights.

- 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:

SoonerCare members who are between the ages of 19 and 50 and who do not meet one of the exemptions, will be affected by the proposed rule changes. These rule changes should not place any cost burden on private or public entities. No information on any cost impacts were received from any entity.

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

The proposed rule changes will benefit some SoonerCare members of Oklahoma by positively addressing social determinants of health such as the ability to get a job or to increase one's earnings. The proposed rule changes will also benefit the taxpayers of Oklahoma by establishing work and community engagement requirements which are aimed at leading some adult SoonerCare members to greater self-sufficiency.

- 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 economic impact and there are no fee changes associated with the rule change for the above classes of persons or any 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 affect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency:

Agency staff has determined that the proposed rule changes will cost \$70,000 State dollars and \$630,000 Federal dollars for fiscal year 2019.

- 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 changes will not have an economic impact on any political subdivision or require their cooperation in implementing or enforcing the rule changes.

- 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 agency does not anticipate that the proposed rule changes will have an adverse effect on small businesses.

- 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:

The agency has taken measures to determine that there are no other legal methods to achieve the purpose of the proposed rule. Measures included a formal public comment period and tribal consultation.

- 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 changes should reduce risks to the public health, safety, and environment because they positively address social determinants of health such as the ability to get a job, the ability to keep a job and the increase of one's earnings. Additionally, the proposed rule changes are aimed at leading some adult SoonerCare members to greater self-sufficiency.

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

The agency anticipates that in the absence of these rule changes, some adult SoonerCare members will not develop the job skills necessary to increase their income which can result in greater self-determination.

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

Prepared date: April 13, 2018

RULE TEXT:

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

SUBCHAPTER 5. ELIGIBILITY AND COUNTABLE INCOME

PART 3. NON-MEDICAL ELIGIBILITY REQUIREMENTS

317:35-5-28. Work and community engagement requirements

(a) **Purpose.** According to the Centers for Disease Control and Prevention, the ability to get a job, the ability to keep a job, and how much a person earns are some of the social determinants of health. Determinants of health are factors that contribute to a person's current state of health and ultimately health outcomes. Community engagement requirements are established with the aim of positively addressing some of the social determinants of health by encouraging SoonerCare members to take an active role in their communities through employment, education and training activities. The aim is that these activities will result in skills needed for long-term independence, success, better health and well-being. Additionally, the aim is that this initiative will promote personal responsibility, decrease enrollment in public assistance programs, increase enrollment in Insure Oklahoma and private insurers, improve overall health for members and provide a better-trained workforce within the state of Oklahoma.

(b) **Approved work and community engagement activities.** Individuals age nineteen (19) through age fifty (50) must meet one of the following work, training, school or volunteer activities in order to have SoonerCare eligibility unless exempted under subsection (d) below. Individuals will have a 90 day grace period to provide proof of meeting the condtions of

work and/or community engagement activities.

(1) Work an average of twenty (20) hours or more per week each month of eligibility. The employment may be paid, in-kind, unpaid, or volunteer work;

(2) Participate in and comply with the requirements of one (1) of the following work programs twenty (20) hours or more per week:

(A) The Workforce Innovation and Opportunity Act (WIOA) Program;

(B) The Trade Adjustment Assistance Program; or

(C) The Employment and Training Program (E&T).

(3) Participate in community service programs with religious or community organizations for at least twenty (20) hours or more per week, averaged monthly; or

(4) Meet any combination of work, work training or volunteering for work an average of twenty (20) hours or more per week, averaged monthly.

(c) **Non-exempt individuals.** Work requirements policy in 317:35-5-28 applies to individuals age nineteen (19) through age fifty (50).

(d) **Exempt individuals.** The following individuals are exempt from the SoonerCare work and community engagement requirements:

(1) Individuals under age nineteen (19) or over age fifty (50);

(2) Individuals who are pregnant, and the pregnancy-related services are covered by Title XIX Medicaid, through the end of sixty (60) days of post-partum care;

(3) Individuals who are medically certified as physically or mentally unfit for employment;

(4) A parent or caretaker responsible for the care of a dependent child under the age of six (6);

(5) A parent or caretaker personally responsible for the care of an incapacitated person;

(6) A person currently subject to and complying with Temporary Assistance for Needy Families (TANF) work registration requirements;

(7) Individuals participating in a drug addiction or alcoholic treatment and rehabilitation program;

(8) A student who is enrolled at least half time in any recognized school, training program, or institution of higher education;

(9) A person currently subject to and complying with a work registration requirement under title IV of the Social Security Act , as amended (42 U.S.C. 602) or Federal-State unemployment compensation system;

(10) Individuals who are employed and working a minimum of thirty (30) hours weekly or receiving weekly earnings equal to the federal minimum wage multiplied by thirty (30) hours;

- (11) Individuals who are self-employed working a minimum of thirty (30) hours weekly or receiving weekly earnings equal to the federal minimum wage multiplied by thirty (30) hours;
- (12) Individuals with a disability under the definitions of the American with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, or Section 1557 of the Affordable Care Act;
- (13) Members enrolled in the OHCA family planning program (SoonerPlan);
- (14) Members enrolled in the OHCA Breast and Cervical Cancer Program (Oklahoma Cares);
- (15) Oklahoma foster care parents;
- (16) Former foster care members who aged out of foster care within the State of Oklahoma and were enrolled in Medicaid at the time;
- (17) Members enrolled in Insure Oklahoma;
- (18) American Indians and Alaska Natives; and
- (19) A person who has been released from incarceration in the past six (6) months is exempt for six (6) months from the date of Medicaid eligibility.

(e) **Reenrollment during or after suspension for non-compliance.** SoonerCare members suspended for non-compliance with work or training requirements may reapply for SoonerCare benefits following at least one (1) month of loss of eligibility by adhering to at least one (1) of the following conditions:

- (1) The member gains employment working at least eighty (80) or more hours in a thirty (30) day period;
- (2) The member participates in and complies with the requirements of a work program for eighty (80) or more hours within a thirty (30) day period, as determined by a State agency;
- (3) The member participates in and complies with the requirements of a program under Section 2029 of Title 7 U.S.C. 2015 or a comparable program established by a State or political subdivision of a State; or
- (4) The member meets an exemption status.

(f) **Fair hearing.** Each SoonerCare member has a right to a fair hearing to appeal a denial or termination of Medicaid benefits. An applicant or a member may file an appeal in accordance with procedures found in Oklahoma Administrative Code (OAC) 317:2-1-2.