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, 2019

The proposed policy is a Permanent Rule. The proposed policy was presented at the November 6, 2018 Tribal Consultation. Additionally, this proposed change will be presented at a Public Hearing scheduled for January 16, 2019. This proposal is scheduled to be presented to the Medical Advisory Committee on January 17, 2019 and to the OHCA Board of Directors on February 14, 2019.

Reference: APA WF# 18-19

SUMMARY:
Oklahoma Cares Breast and Cervical Cancer Treatment (BCC) Program – The proposed revisions to the BCC policy add reference to the American Society for Colposcopy and Cervical Pathology Consensus and National Comprehensive Cancer Network, which provides guidelines for "in need of treatment" determinations. In addition, the term "OKDHS worker" will be replaced with the term "eligibility coordinator" to make policy current; including clean-up and removal of outdated language.

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; 42 CFR 435.213

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA
OKLAHOMA HEALTH CARE AUTHORITY

TO: Ivoria Holt
Health Policy

FROM: Carmen Johnson
Health Policy

SUBJECT: Rule Impact Statement

APA WF # 18-19

A. Brief description of the purpose of the rule:

The proposed revisions to the BCC policy add reference to the American Society for Colposcopy and Cervical Pathology Consensus and National Comprehensive Cancer Network, which provides guidelines for “in need of treatment” determinations. Revisions will also clarify that creditable coverage is verified by the Oklahoma Health Care Authority eligibility coordinator and no longer the Centers for Disease Control screener. To make policy current the term "OKDHS worker" will be replaced with the term "eligibility coordinator" and "SoonerCare Medical Director" will be replaced with "Chief Medical Officer". In addition, revisions will update/remove outdated language in order to reflect current business practices and to provide consistency throughout policy.

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:

No classes of persons will be affected by the proposed rule. This rule 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:

No classes of person will benefit from this rule change as it is removing policy that is no longer applicable.

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 subdivision.

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:

Agency staff has determined that the proposed rule is budget neutral.

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 or require their cooperation 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:

The agency has taken measures to determine that there is no less costly or non-regulatory method or less intrusive method for achieving the purpose of the proposed rule.

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:

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

OHCA does not believe there is a detrimental effect on the public health and safety if the rule is not passed.

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

Prepared: November 6, 2018.
Modified: November 16, 2018

RULE TEXT

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

SUBCHAPTER 21. OKLAHOMA CARES BREAST AND CERVICAL CANCER TREATMENT PROGRAM

317:35-21-1. Oklahoma Cares Breast and Cervical Cancer Treatment (BCC) program

(a) The Breast and Cervical Cancer Prevention and Treatment Act of 2000 (BCCPTA) allows states to provide Medicaid to uninsured women under age ~~65~~sixty-five (65) who are in need of treatment for breast and/or cervical cancer. A medical eligibility evaluation is performed through the Centers for Disease Control (CDC) and Prevention's ~~(CDC)~~ National Breast and Cervical Cancer Early Detection Program (NBCCEDP). If the evaluation determines the woman is in need of treatment for breast and/or cervical cancer, including pre-cancerous conditions and early stage, recurrent or metastatic cancer the case is forwarded to ~~OHCA~~Oklahoma Health Care Authority (OHCA) for final medical eligibility determination.

(b) To receive Breast and Cervical Cancer (BCC) Treatment services, the woman must meet all of the following conditions.

(1) The woman must have been screened for BCC under the CDC Breast and Cervical Cancer Early Detection Program ~~(see OAC Code (OAC) 317:35-21-3)~~[see Oklahoma Administrative Code (OAC) 317:35-21-3] established under Title XV of the Public Health Service ~~(PHS)~~ Act, and upon screening examination found to be in need of treatment, including an abnormal finding that is potentially indicative of a cancerous or precancerous condition or found to have an early stage, recurrent or metastatic cancer of the breast or cervix. (see OAC 317:35-21-5).

(2) The woman must:

(A) not have creditable insurance coverage that covers the treatment of breast or cervical cancer (see OAC 317:35-21-4),

(B) not be eligible for any other categorically needy SoonerCare eligibility group,

(C) be under ~~65~~sixty-five (65) years of age,

(D) be a US citizen or qualified alien (see OAC 317:35-5-25 for citizenship/alien status and identity verification requirements),

(E) be a resident of Oklahoma,
(F) declare her Social Security number,
(G) assign her rights to Third Party Liability if she has insurance that is not creditable, and
(H) declare her household income for the purpose of determining eligibility for services under the SoonerCare program.

317:35-21-3. CDC screening

(a) To be eligible for the ~~Oklahoma Cares Breast and Cervical Cancer Treatment~~BCC program, a woman must be screened under the CDC Breast and Cervical Cancer Early Detection Program. A woman is considered screened under the CDC program if her screening was provided all or in part by CDC Title XV funds, or the service was rendered by a provider funded at least in part by CDC Title XV funds, and/or if she is screened by another provider whose screening activities are pursuant to CDC Title XV of the Public Health Service ~~(PHS)~~ Act.

(b) Prior to certification of the BCC application an OHCA Care Management nurse must review the application and clinical data to verify the BCC applicant meets medical eligibility criteria for the BCC program.

(c) Upon verification by OHCA Care Management, the application is forwarded to the ~~OKDHS worker~~eligibility coordinator to verify ~~that~~ the BCC applicant was screened by a CDC provider and meets criteria for the program as outlined in OAC 317:35-21-1.

317:35-21-4. Creditable coverage

(a) Creditable coverage when used in this subchapter means any insurance that pays for medical bills incurred for the diagnosis and/or treatment of breast or cervical cancer. A woman having any one of the following types of coverage is considered to have creditable coverage and would normally be ineligible for the ~~Breast and Cervical Cancer Treatment~~BCC program:

(1) Coverage under a group health plan;
(2) Health insurance coverage, i.e., benefits consisting of medical care under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer;
(3) Medicare Part A and/or B;
(4) SoonerCare;
(5) Armed Forces insurance; and/or
(6) A state health risk pool.

(b) If a woman has limited coverage, such as limited drug coverage or limits on the number of outpatient visits, or high deductibles, she is still considered to have creditable coverage. However, if

she has a policy with limited scope coverage such as those that only cover dental, vision, or long term care, or a policy that covers only a specific disease or illness, she is not considered to have creditable coverage, unless the policy provides coverage for breast or cervical cancer.
(c) There may be some circumstances when a woman has creditable coverage but that coverage does not actually cover treatment of breast or cervical cancer. In instances such as pre-existing condition exclusions, or when the annual or lifetime limit on benefits has been exhausted, a woman is not considered to have creditable coverage for this treatment. In these types of circumstances the woman may be eligible for ~~Breast and Cervical Cancer~~BCC services if she meets all other eligibility criteria.
(d) There is no requirement that a woman be uninsured for any specific length of time before she is found eligible for SoonerCare under this program. If a woman loses creditable coverage for any reason and satisfies all other eligibility requirements for the BCC program, it is possible for her to become immediately eligible for coverage in this program.
(e)~~ The CDC screener evaluates whether or not the woman has creditable coverage. All health insurance, creditable or not, is listed on the OKDHS computer system in order for OHCA Third Party Liability Unit to verify insurance coverage. Questionable insurance coverage is noted in the application by the CDC screener. Applications with questionable insurance coverage are forwarded to the OHCA Third Party Liability Unit for further verification.~~ The existence of creditable coverage will be verified by the OHCA eligibility coordinator.

317:35-21-5. In need of treatment

In need of treatment, when used in this subchapter, means an abnormal screen determined as a result of a screening for BCC under the CDC BCC Early Detection Program established under Title XV of the Public Health Service Act, indicating pre-cancerous conditions and early stage, recurrent or metastatic cancer. Services include diagnostic services for an abnormal finding that may be necessary to determine the extent and proper course of treatment, as well as definitive cancer treatment itself. Women who are determined to require only routine monitoring services for precancerous breast or cervical condition (e.g., breast examinations, mammograms, pelvic exams and pap smears) are not considered to be "in need of treatment". The American Society for Colposcopy and Cervical Pathology Consensus and National Comprehensive Cancer Network guidelines are used to make the "in need of treatment" determination.

317:35-21-6. Age requirements

To be eligible for the ~~Oklahoma Cares Breast and Cervical Cancer Treatment~~BCC program, a woman must be under ~~65~~sixty-five (65) years of age. If a woman turns ~~65~~sixty-five (65) during the certification period, eligibility ends effective the last day of her birth month. The ~~OKDHS worker~~eligibility coordinator assists the woman in determining if eligibility may continue in another SoonerCare category.

317:35-21-9. Income

(a) There is no income limit imposed by ~~state or federal law~~State or Federal law for the ~~Breast and Cervical Cancer Treatment~~BCC program. However, the CDC Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service ~~(PHS)~~ Act does allow CDC program grantees to set maximum income limits.

(b) Income limits are established for women receiving ~~Breast and Cervical Cancer Treatment~~BCC program services through SoonerCare. The woman is required to declare her household income so that the ~~OKDHS worker~~eligibility coordinator may determine if she qualifies for the program or is otherwise SoonerCare eligible.

317:35-21-11. Certification for BCC

(a) In order for a woman to receive BCC treatment services, she must first be screened for BCC ~~cancer~~ under the CDC Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act and found to be in need of treatment. Once determined to be in need of treatment, the CDC screener determines that the woman:

(1) does not have creditable health insurance coverage,
(2) is under age ~~65,~~sixty-five (65),
(3) is a US citizen or qualified alien (see OAC 317:35-5-25),
(4) is a ~~self declared~~self-declared Oklahoma resident,
(5) has provided her social security number,
(6) is willing to assign medical rights to ~~TPL,~~Third Party Liability, and
(7) has declared all household income.

(b) If all of the conditions in subchapter (a) are met, the CDC screener assists the woman in completing the BCC application (OHCA BCC-1). The completed BCC-1 along with the documentation of clinical findings, (i.e., history and physical findings, pathology reports, radiology reports and other pertinent data) is forwarded to the OHCA Care Management Unit.

(c) ~~The~~An OHCA Care Management nurse verifies that the member meets the medical eligibility criteria described in OAC 317:35-21-1 (a) and meets the "in need of treatment" criteria set forth in OAC 317:35-21-1(b)1 and 317:35-21-5. If this criteria is not met or the appropriate clinical documentation is not included, the

application will be denied and the OHCA will send a notice of ineligibility to the applicant. Abnormal findings do not include women who are at high risk or who could appropriately receive risk reduction therapy, but have no evidence of cancer or a precancerous condition. If it is determined that the woman does not have cancer or a precancerous condition, a future application for the BCC program must be based on a different finding of abnormality than the previous application data.
(d) If all medical eligibility criteria are met, the application will be forwarded to ~~OKDHS~~the eligibility coordinator for further determination of eligibility.
(e) The ~~OKDHS worker~~eligibility coordinator verifies that the screener is a CDC screener. The ~~worker~~eligibility coordinator also establishes whether or not the woman is otherwise eligible for SoonerCare. If the woman is not otherwise eligible for SoonerCare, she is certified for the BCC program. If the woman is eligible under another SoonerCare category, the application is certified in the other Medicaid category.
(f) If a woman does not cooperate in determining her eligibility for other SoonerCare programs, her BCC application is denied and the appropriate notice is computer generated. For example, if a woman otherwise eligible for SoonerCare, related to the low income families with children category, refuses to cooperate with child support enforcement without good cause would not be eligible for the BCC program.
(g) If a woman in treatment for breast or cervical cancer contacts the ~~OKDHS office~~OHCA and has not been through the CDC screening process, she is referred to the Oklahoma Cares toll free number (866-550-5585) for assistance.
(h) An individual determined eligible for the ~~Oklahoma Cares Breast and Cervical Cancer Treatment~~BCC program may be certified the first day of the month of application. If the individual had a medical service prior to the application date, certification will occur the first day of the first, second or third month prior to the month of application, in accordance with the date of the medical service, provided the date of certification is not prior to the CDC Screen.

317:35-21-12. Changes after certification/continued need for treatment
(a) A woman found to be in need of treatment as the result of an abnormal BCC screen has ~~60~~sixty (60) days from the date of the application to complete the initial appointment for a diagnostic procedure and an additional ~~60~~sixty (60) days to complete any additional diagnostic testing required or to initiate compensable treatment for a cancerous or pre-cancerous condition. The exception to the time limit is evidence of a lack of appointment

availability. Upon completion of the diagnostic testing, OHCA is provided a medical report of the findings.

(1) If the woman is found not to have breast or cervical cancer including pre-cancerous conditions and early stage, recurrent or metastatic cancer for which she is in need of treatment or fails to have diagnostic testing or begin treatment within the time frames described in OAC 317:35-21-12(a), the case is closed by ~~OKDHS~~OHCA and appropriate notification is computer generated.

(2) If a medical report necessary to determine continued treatment is not received from a provider within ten (10) working days after a request is made by OHCA, the report is considered negative and the case is closed by ~~OKDHS~~OHCA and appropriate notification is computer generated.

(b) If the woman in need of treatment refuses SoonerCare compensable treatment or diagnostic services and does not plan to pursue the care in the time frames described in OAC 317:35-21-12(a), the case is closed by ~~OKDHS~~OHCA and appropriate notification is computer generated.

(c) In the event a woman is unable to initiate or complete diagnostic services due to a catastrophic illness or injury occurring after certification, SoonerCare will remain open with the approval of a ~~SoonerCare Medical Director~~Chief Medical Officer or his/her designee.

(d) If it is determined at any time during the certification period by either the woman's treating physician or by a ~~SoonerCare Medical Director~~Chief Medical Officer or his or her designee that the woman is no longer in need of treatment for breast or cervical cancer or a precancerous condition, ~~OHCA will notify OKDHS and the OKDHS worker~~the eligibility coordinator closes the case and appropriate notification is computer generated.

(e) If it is determined at any time during the certification period that the woman has creditable health insurance coverage, the ~~OKDHS worker~~eligibility coordinator closes the case and appropriate notification is computer generated.

(f) If the ~~OKDHS worker~~eligibility coordinator later determines that the woman is otherwise eligible for SoonerCare, the worker takes necessary actions to certify her for the appropriate category of SoonerCare coverage.

317:35-21-14. Appeals and reconsiderations

(a) Applicants who wish to appeal a denial decision made by the OHCA ~~or OKDHS~~ may submit form LD-1 to the OHCA within ~~20~~thirty (30) days of receipt of the decision notification. If the form is not received at the OHCA within the required time frame, the appeal will not be heard. More information on the appeals process is provided at OAC 317:2-1-2(a).

(b) Reconsiderations to the OHCA may be requested by a CDC screener if missing documentation, ~~that~~which could potentially result in a determination of eligibility, has been obtained. The missing documentation must be presented within ~~30~~thirty (30) days of the date of the notice of denial.