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 #18-22A

SUMMARY:
Developmental Disabilities Services Division (DDS) Revisions – The proposed revisions to the DDS policy amend the rules to implement changes recommended during the annual Oklahoma Department of Human Services (DHS) DDS rule review process. Revisions will also eliminate and update outdated policy in order to better align with current business practices.

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; Director of Human Services; Sections 441.301 et. seq. of Title 42 of the Code of Federal Regulations

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA
OKLAHOMA HEALTH CARE AUTHORITY

TO: Ivoria Holt
Federal and State Policy

FROM: Carmen Johnson
Federal and State Authorities

SUBJECT: Rule Impact Statement
APA WF # 18-22A

A. Brief description of the purpose of the rule:

The proposed Developmental Disabilities Services (DDS) revisions will eliminate and update outdated policy in order to better align with current business practices. These proposed changes were recommendations from the annual Oklahoma Department of Human Services DDS rule review process.

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:

The classes of persons affected by the proposed amendments are individuals receiving services from DDS; however, will bear no cost associated with the implementation of the rule.

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

The classes of persons who benefit are individuals receiving services from DDS.

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 economic impact on individuals who receive services from DDS.

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:

There are no probable costs associated with the enforcement of this rule.

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 does not have an impact on any political subdivisions or require their cooperation in enforcing the rules.

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 does not have an adverse effect on small business 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 proposed rule will not increase compliance costs. There are no less costly or non-regulatory methods or less intrusive methods.

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 revisions bring the rule into compliance with federal and state laws, thereby increasing program effectiveness, positively impacting the health, safety and well-being of affected persons.

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

If the proposed rules are not implemented, the rules will not be in compliance with federal and state law. The proposed rules are intended to comply with federal and state laws, thereby contributing to the health, safety and well-being of vulnerable Oklahomans.

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 30. MEDICAL PROVIDERS-FEE FOR SERVICE

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 3. GENERAL MEDICAL PROGRAM INFORMATION

317:30-3-40. Home and Community-Based Services Waivers (HCBS) for persons with intellectual disabilities or certain persons with related conditions

(a) **Introduction to HCBS ~~Waivers~~waivers for persons with intellectual disabilities.** The Medicaid ~~Home and Community-Based Services (HCBS)~~HCBS ~~Waiver~~waiver programs are authorized ~~in accordance with~~per Section 1915(c) of the Social Security Act.

(1) Oklahoma Department of Human Services Developmental Disabilities Services Division ~~(DDSD)~~(DDS) operates HCBS ~~Waiver~~waiver programs for persons with intellectual disabilities and certain persons with related conditions. The Oklahoma Health Care Authority (OHCA), ~~as~~is the State's ~~single~~ Medicaid agency, retains and exercises administrative authority over all HCBS ~~Waiver~~waiver programs.

(2) Each waiver allows for the provision of specific SoonerCare-compensable services that assist members to reside in the community and avoid institutionalization.

(3) ~~Waiver~~HCBS waiver services:

(A) complement and supplement services available to members through the Medicaid State Plan or other federal, state, or local public programs, as well as informal supports provided by families and communities;

(B) ~~can~~are only ~~be~~ provided to persons who are Medicaid eligible, outside of a nursing facility, hospital, or institution; ~~and~~

(C) are not intended to replace other services and supports available to members~~.~~; and

(D) are authorized based solely on current need.

(4) ~~Any waiver service~~HCBS waiver services must be:

(A) appropriate to the member's needs; and

(B) included in the member's Individual Plan (IP).

(i) The IP:

(I) is developed annually by the member's Personal Support Team, per ~~OAC~~Oklahoma Administrative Code (OAC) 340:100-5-52; and

(II) contains detailed descriptions of services provided, documentation of amount and frequency of services, and types of providers to provide services.

(ii) Services are authorized, ~~in accordance with~~per OAC 340:100-3-33 and 340:100-3-33.1.

(5) ~~DDSD~~DDS furnishes case management, targeted case management, and services to members as a Medicaid State Plan ~~service under~~services, per Section 1915(g)(1) of the Social Security Act ~~in accordance with~~and per OAC 317:30-5-1010 through 317:30-5-1012.

(b) **Eligible providers.** All providers must have entered into contractual agreements with OHCA to provide HCBS for persons with an intellectual disability or related conditions.

(1) All providers, except pharmacy, specialized medical supplies and durable medical equipment providers must be reviewed by ~~OKDHS DDSD.~~DHS DDS. The review process verifies~~:~~ that:

(A) the provider meets the licensure, certification or other standards ~~as~~ specified in the approved HCBS ~~Waiver~~waiver documents; and

(B) organizations that do not require licensure ~~wishing~~wanting to provide HCBS services meet program standards, are financially stable and use sound business management practices.

(2) Providers who do not meet ~~the~~program standards in the review process ~~will~~are not ~~be~~ approved for a provider agreement.

(3) Provider agreements with providers that fail to meet programmatic or financial requirements may not be renewed.

(c) **Coverage.** All services must be included in the member's IP~~. Arrangements~~ and arranged by ~~for services must be made with~~ the member's case manager.