

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: February 15, 2019

The proposed policy is a Permanent Rule. The proposed policy was presented at the January 8, 2019 Tribal Consultation. Additionally, this proposed change will be presented at a Public Hearing scheduled for February 20, 2019. This proposal is scheduled to be presented to the Medical Advisory Committee on March 14, 2019 and to the OHCA Board of Directors on March 21, 2019.

Reference: APA WF 18-15C

SUMMARY:

Change Timeframes for Appeals – The proposed revisions change all of the agency's appeals rules, to extend the length of time that appeals can be submitted from twenty days to thirty days of the date of an adverse agency action.

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 C.F.R. § 431.200 to 431.246 and 455.422; 12 O.S. § 951; 56 O.S. § 1011.9; 63 O.S. § 5030.3; 68 O.S. § 205.2; 75 O.S. §§ 305 and 309

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA OKLAHOMA HEALTH CARE AUTHORITY

TO: Nicole Nantois
Legal Services

FROM: Harvey Reynolds
Federal and State Authorities

SUBJECT: Rule Impact Statement
APA WF # 18-15C

A. Brief description of the purpose of the rule:

The proposed revisions change all of the agency's appeals rules, to extend the length of time that appeals can be submitted from twenty days to thirty days of the date of an adverse agency action.

- 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 and providers who wish to file an appeal will be positively affected by the proposed rule change. This rule change 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 will benefit SoonerCare members and providers by giving them an additional ten days within which to file an appeal.

- 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 estimates that the proposed rule change will be 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 change will not have an economic impact on any political subdivision or require their cooperation in implementing or enforcing the rule change.

- 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 changes. 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 not have any effect on the public health, safety or environment. The proposed rule changes are not designed to reduce significant risks to the public health, safety or environment.

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

The agency does not anticipate any detrimental effect on the public health, safety or environment if the proposed rule is not implemented.

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

Prepared date: November 1, 2018

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

SUBCHAPTER 19. NURSING FACILITY SERVICES

317:35-19-16. PASRR appeals process

(a) Any individual who has been adversely affected by any ~~PASRR~~Preadmission Screening and Resident Review (PASRR) determination made by the State in the context of either a preadmission screening or an annual resident review may appeal that determination by requesting a fair hearing. If the individual does not consider the PASRR decision a proper one, the individual or their authorized representative must contact the local county ~~OKDHS~~Oklahoma Department of Human Services (DHS) office to discuss a hearing. Forms for requesting a fair hearing (~~OKDHS~~ Form 13MP001E, Request for a Fair Hearing), as well as assistance in completing the forms, can be obtained at the local county ~~OKDHS~~ office. Any request for a hearing must be made no later than ~~20~~thirty (30) days following the date of written notice. Appeals of these decisions are available under ~~OAC 317:2-1-20~~Oklahoma Administrative Code (OAC) 317:2-1-2. There is no distinction between the SoonerCare and non-SoonerCare patient; therefore, all individuals seeking an appeal have the same rights, regardless of source of payment. Level I determinations are not subject to appeal.

(b) When the individual is found to experience ~~MI~~Mental Illness (MI), ~~MR~~Intellectual Disability (ID), or related condition through the Level II screen, the PASRR determination made by the MR/MI authorities cannot be countermanded by the Oklahoma Health Care Authority, either in the claims process or through other utilization control/review processes, or by the Oklahoma State Department of Health. Only appeals determinations made through the fair hearing process may overturn a PASRR determination made by the MR/MI authorities.