**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 #18-26**

**SUMMARY:**
**Residential Behavioral Management Services (RBMS) Group Homes revisions –** The proposed revisions will streamline group home coverage and reimbursement policy language, and develop consistency with current practice. Revisions will involve limited rewriting aimed at updating outdated terminology.

**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;

**RULE IMPACT STATEMENT:**

**STATE OF OKLAHOMA**
**OKLAHOMA HEALTH CARE AUTHORITY**

TO: Nicole Nantois
Legal Services

FROM: Vanessa Andrade
Federal and State Authorities

SUBJECT: Rule Impact Statement
APA WF #18-26

A. Brief description of the purpose of the rule:

The proposed revisions will streamline group home coverage and reimbursement policy language and develop consistency with current practice. The proposed revisions will outline and clarify provider requirements and remove references to any services provided in wilderness camps and Diagnostic and Evaluation (D&E) centers. Revisions will involve limited rewriting aimed at updating outdated terminology

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:

Children in the custody of the state who are in need of group home level of care will be affected by the proposed policy. The cost for state share will be the responsibility of the Department of Human Services (DHS) Child Welfare and Oklahoma Juvenile Affairs (OJA) for their respective homes.

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

Children in the custody of the state will benefit from the proposed rule by ensuring they receive appropriate support, supervision, and training in daily living skills.

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 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:

The proposed changes would potentially result in a combined federal and state spending of $7,048,848 total with $2,663,063 in state share for SFY2020. The state share will be paid by the Oklahoma Department of Human Services.

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 impact on small business.

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:

The proposed rule should have no adverse effect on the public health, safety, and environment.

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: December 10, 2018
Modified: January 15, 2019

**RULE TEXT:**

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY**
**CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**

**SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES**

**PART 105. RESIDENTIAL BEHAVIORAL MANAGEMENT SERVICES IN GROUP SETTINGS ~~AND NON-SECURE DIAGNOSTIC AND EVALUATION CENTERS~~**

**317:30-5-1041. Eligible providers**

Payment is made for Residential Behavior Management Services (RBMS) in group settings ~~and non-secure Diagnostic and Evaluation (D&E) Centers~~ to any ~~OHCDS who~~Organized Heath Care Delivery System (OHCDS) that is a child placing agency~~ who~~, that has a statutory authority for the care of children in the custody of the State of Oklahoma and which enters into a contract with the State Medicaid program. The OHCDS must certify to the ~~OHCA~~Oklahoma Health Care Authority (OHCA) that all direct providers of services (whether furnished through its own employees or under contract) meet the minimum program qualifications. ~~Residential Behavior Management Services and Diagnostic and Evaluation services~~ RBMS are covered only for those beds contracted by the OHCDS.

**317:30-5-1042. Memorandum of agreement**

A Memorandum of Agreement between the Oklahoma Health Care Authority (OHCA) and the Organized Heath Care Delivery System (OHCDS) must be in effect before reimbursement can be made for compensable services. The agreement outlines the contractual and subcontractual requirements for reimbursement. This agreement provides that the OHCDS is responsible for the Medicaid State share required for federal financial participation for all ~~RBMS~~Residential Behavior Management Services (RBMS) provided to custody children in residential ~~group home and diagnostic and evaluation settings.~~group homes.

**317:30-5-1043. Coverage by category**

(a) **Adults.** Residential Behavioral Management Services (RBMS) in ~~Group Settings and Non-Secure Diagnostic and Evaluation Center Services~~ group settings are not covered for adults.

(b) **Children.** ~~Residential Behavioral Management Services (RBMS) in Group Settings and Non-Secure Diagnostic and Evaluation Centers~~ RBMS in group settings are covered for children as set forth in this subsection.

(1) **Description**. ~~Residential Behavior Management Services~~RBMS are provided by Organized Health Care Delivery Systems (OHCDS) for children in the care and custody of the ~~State~~state who have special psychological, behavioral, emotional and social needs

that require more intensive care than can be provided in a family or foster home setting. The behavior management services are provided in the least restrictive environment and within a therapeutic milieu. The group setting is restorative in nature, allowing children with emotional and psychological problems to develop the necessary control to function in a less restrictive setting. ~~Residential Behavior Management Services are reimbursed in accordance with the intensity of supervision and treatment required for the group setting in which the child is placed. Members residing in a Level E and Intensive Treatment Services (ITS) Group Homes receive maximum supervision and treatment. In addition, ITS group homes provide crisis and stabilization intervention and treatment. Members residing in a Level D+ Group Home receive highly intensive supervision and treatment. Members residing in a Level D Group home or in a wilderness camp receive close supervision and moderate treatment. Members residing in a Level C Group Home receive minimum supervision and treatment. Members residing in Residential Diagnostic and Evaluation Centers receive intensive supervision and a 20 day comprehensive assessment. Members residing in a Sanctions Home receive highly intensive supervision and treatment. Members residing in an Independent Living Group Home receive intensive supervision and treatment.~~RBMS are reimbursed in accordance with established rate methodology as described in the Oklahoma Medicaid State Plan. It is expected that RBMS in group settings are an all-inclusive array of treatment services provided in one (1) day. In the case of a child who needs additional specialized services, under the Rehabilitation Option or by a psychologist, prior authorization by the OHCA or designated agent is required. Only specialized rehabilitation or psychological treatment services to address unique, unusual or severe symptoms or disorders will be authorized. If additional services are approved, the OHCDS collaborates with the provider of such services as directed by the OHCA or its agent. Any additional specialized behavioral health services provided to children in state custody are funded in the normal manner. The OHCDS must provide concurrent documentation that these services are not duplicative. The OHCDS determines the need for RBMS.

(2) **Medical necessity criteria.** The following medical necessity criteria must be met for ~~residential behavior Management Services~~RBMS.

(A) Any ~~DSM~~Diagnostic and Statistical Manual (DSM) primary diagnosis, with the exception of V codes, with a detailed description of the symptoms supporting the diagnosis. A detailed description of the child's emotional, behavioral and psychological condition must be on file. ~~A diagnosis is~~

~~not required for behavior management services provided in Diagnostic and Evaluation centers.~~

(B) The child is medically stable and not actively suicidal or homicidal and not in need of substance abuse detoxification services.

(C) It has been determined by the OHCDS that the current disabling symptoms could not have been or have not been manageable in a less intensive treatment program.

(D) Documentation that the child's presenting emotional and/or behavioral problems prevent the child from living in a traditional family home. The child requires the availability of ~~24~~twenty-four (24) hour crisis response/behavior management and intensive clinical interventions from professional staff.

(E) The ~~Agency~~agency which has permanent or temporary custody of the child agrees to active participation in the child's treatment needs and planning.

(F) All of the medical necessity criteria must also be met for continued stay in residential group settings.

(3) **Treatment components.**

(A) **Individual plan of care development.** A comprehensive individualized plan of care for each resident shall be formulated by the provider agency staff within ~~30~~thirty (30) days of admission, for ~~ITS~~intensive treatment services (ITS) level within ~~72~~seventy-two (72) hours, with documented input from the agency which has permanent or temporary custody of the child and when possible, the parent. This plan must be revised and updated at least every three (3) months, every seven (7) days for ITS, with documented involvement of the agency which has permanent or temporary custody of the child. Documented involvement can be written approval of the individual plan of care by the agency which has permanent or temporary custody of the child and indicated by the signature of the agency case worker or liaison on the individual plan of care. It is acceptable in circumstances where it is necessary to fax a service plan to someone for review and then have ~~them~~him/her fax back ~~their~~his/her signature; however, the provider obtains the original signature for the clinical file within ~~30~~thirty (30) days. No stamped or Xeroxed signatures are allowed. An individual plan of care is considered inherent in the provision of therapy and is not covered as a separate item of behavior management services. The individual plan of care is individualized taking into account the child's age, history, diagnosis, functional levels, and culture. It includes appropriate goals and time limited and measurable objectives. Each member's individual plan of care must also address the

provider agency's plans with regard to the provision of services in each of the following areas:

(i) group therapy;
(ii) individual therapy;
(iii) family therapy;
(iv) alcohol and other drug counseling;
(v) basic living skills redevelopment;
(vi) social skills redevelopment;
(vii) behavior redirection; and
(viii) the provider agency's plan to access appropriate educational placement services. (Any educational costs are excluded from calculation of the daily rate for behavior management services.)

(B) **Individual therapy.** The provider agency must provide individual therapy on a weekly basis with a minimum of one (1) or more sessions totaling one (1) hour or more of treatment per week to children and youth receiving RBMS in ~~Wilderness Camps, Level D, Level D+ homes, Level E Homes, Independent Living Homes, and Sanctions Homes. ITS Level residents will receive a minimum of five or more sessions totaling a minimum of five or more hours of individual therapy per week. Members residing in Diagnostic and Evaluation Centers and Level C Group Homes receive Individual Therapy on an as needed basis.~~group homes. Individual therapy must be age appropriate and the techniques and modalities employed relevant to the goals and objectives of the individual's plan of care. Individual counseling is a ~~face to face, one to one~~face-to-face, one-to-one service, and must be provided in a confidential setting.

(C) **Group therapy.** The provider agency must provide group therapy to children and youth receiving ~~residential behavioral management services~~RBMS. Group therapy must be a ~~face to face~~face-to-face interaction, age appropriate and the techniques and modalities employed relevant to the goals and objectives of the individual's plan of care. The minimum expected occurrence would be one (1) hour per week in ~~Level D, Level C, Wilderness Camps and Independent Living. Two hours per week are required in Levels D+ and E. Ten hours per week are required in Sanctions Homes, Intensive Treatment Service Level. Group therapy is not required for Diagnostic and Evaluation Centers.~~group homes. Group size should not exceed six (6) members and group therapy sessions must be provided in a confidential setting. One half hour (30 min) of individual therapy may be substituted for one (1) hour of group therapy.

(D) **Family therapy.** Family therapy is a ~~face to face~~face-to-face interaction between the therapist/counselor and

family, to facilitate emotional, psychological or behavioral changes and promote successful communication and understanding. The provider agency must provide family therapy as indicated by the resident's individual plan of care. The agency must work with the caretaker to whom the resident will be discharged, as identified by the OHCDS custody worker. The agency must seek to support and enhance the child's relationships with family members (nuclear and appropriate extended), if the custody plan for the child indicates family reunification. The RBMS provider must also seek to involve the child's parents in treatment team meetings, plans and decisions and to keep them informed of the child's progress in the program. Any service provided to the family must have the child as the focus.

(E) **Alcohol and other drug abuse treatment education, prevention, therapy.** The provider agency must provide alcohol and other drug abuse treatment for residents who have emotional or behavioral problems related to substance abuse/chemical dependency, to begin, maintain and enhance recovery from alcoholism, problem drinking, drug abuse, drug dependency addiction or nicotine use and addiction. This service is considered ancillary to any other formal treatment program in which the child participates for treatment and rehabilitation. For residents who have no identifiable alcohol or other drug use, abuse, or dependency, age appropriate education and prevention activities are appropriate. These may include self-esteem enhancement, violence alternatives, communication skills or other skill development curriculums.

(F) **Basic living skills redevelopment.** The provider agency must provide ~~goal directed~~goal-directed activities designed for each resident to restore, retain, and improve those basic skills necessary to independently function in a family or community. Basic living skills redevelopment is age appropriate and relevant to the goals and objectives of the individual plan of care. This ~~many~~may include, but is not limited to food planning and preparation, maintenance of personal hygiene and living environment, household management, personal and household shopping, community awareness and familiarization with community resources, mobility skills, job application and retention skills.

(G) **Social skills redevelopment.** The provider agency must provide ~~goal directed~~goal-directed activities designed for each resident to restore, retain and improve the ~~self help~~self-help, communication, socialization, and adaptive skills necessary to reside successfully in home and community based settings. These are age appropriate, culturally sensitive and relevant to the goals of the

individual plan of care. For ITS level of care, the minimum skill redevelopment per day is three (3) hours. Any combination of basic living skills and social skills redevelopment that is appropriate to the need and developmental abilities of the child is acceptable.

(H) **Behavior redirection.** The provider agency must be able to provide behavior redirection management by agency staff as needed ~~24 hours a day, 7 days per week~~twenty-four (24) hours a day, seven (7) days per week. The agency must ensure staff availability to respond in a crisis to stabilize residents' behavior and prevent placement disruption. In addition, ITS group homes will be required to provide crisis stabilization interaction and treatment for new residents ~~24 hours a day, seven days a week~~twenty-four (24) hours a day, seven (7) days a week.

~~(4) **Providers.** For eligible RBMS agencies to bill the Oklahoma Health Care Authority for services of their providers, the providers of individual, group and family therapies must:~~

~~(A) be a licensed psychologist, social worker (clinical specialty only), professional counselor, marriage and family therapist, or behavioral practitioner, or under Board Supervision to be licensed in one of the above stated areas; or~~

~~(B) have one year of experience in a behavioral health treatment program and a master's degree in a mental health treatment field licensable in Oklahoma by one of the following licensing boards:~~

~~(i) Psychology,~~

~~(ii) Social work (clinical specialty only),~~

~~(iii) Licensed professional counselor,~~

~~(iv) Licensed marriage and family therapist, or~~

~~(v) Licensed behavioral practitioner; or~~

~~(C) have a baccalaureate degree in a mental health field in one of the stated areas listed in (B) of this paragraph AND three or more years post-baccalaureate experience in providing direct patient care in a behavioral health treatment setting and be provided a minimum of weekly supervision by a staff member licensed as listed in (A) of this paragraph; or~~

~~(D) be a registered psychiatric nurse; AND~~

~~(E) demonstrate a general professional or educational background in the following areas:~~

~~(i) case management, assessment and treatment planning;~~

~~(ii) treatment of victims of physical, emotional, and sexual abuse;~~

~~(iii) treatment of children with attachment disorders;~~

~~(iv) treatment of children with hyperactivity or attention deficit disorders;~~

~~(v) treatment methodologies for emotional disturbed children and youth;~~
~~(vi) normal childhood development and the effect of abuse and/or neglect on childhood development;~~
~~(vii) treatment of children and families with substance abuse and chemical dependency disorders;~~
~~(viii) anger management; and~~
~~(ix) crisis intervention.~~

~~(5)~~(4) **Providers.** For eligible RBMS agencies to bill the ~~Oklahoma Health Care Authority~~OHCA for services provided by their staff for behavior management therapies ~~(Individual, Group, Family)~~(individual, group, family) as of July 1, 2007, providers must have the following qualifications:

(A) be licensed in the state in which the services are delivered as a licensed psychologist, social worker (clinical specialty only), professional counselor, marriage and family therapist, or behavioral practitioner, alcohol and drug counselor or under Board approved Supervision to be licensed in one of the above stated areas; or

(B) be licensed as an ~~Advanced Practice Nurse~~advanced practice nurse certified in a psychiatric mental health specialty, licensed as a registered nurse with a current certification of recognition from the Board of Nursing in the state in which services are provided, AND

(C) demonstrate a general professional or educational background in the following areas:

(i) case management, assessment and treatment planning;

(ii) treatment of victims of physical, emotional, and sexual abuse;

(iii) treatment of children with attachment disorders;

(iv) treatment of children with hyperactivity or attention deficit disorders;

(v) treatment methodologies for emotionally disturbed children and youth;

(vi) normal childhood development and the effect of abuse and/or neglect on childhood development;

(vii) treatment of children and families with substance abuse and chemical dependency disorders;

(viii) anger management; and

(ix) crisis intervention.

(D) Staff providing basic living skills redevelopment, social skills redevelopment, and alcohol and other substance abuse treatment, must meet one (1) of the following areas:

(i) Bachelor's or Master's degree in a behavioral health related field including but not limited to, psychology, sociology, criminal justice, school guidance and counseling, social work, occupational therapy, family studies, alcohol and drug; or

(ii) a current license as a registered nurse in Oklahoma; or

(iii) certification as an ~~Alcohol and Drug Counselor~~alcohol and drug counselor to provide substance abuse rehabilitative treatment to those with alcohol and/or other drug dependencies or addictions as a primary or secondary DSM diagnosis; or

(iv) current certification as a ~~Behavioral Health Case Manager~~behavioral health case manager from ~~DMHSAS~~the Oklahoma Department of Mental Health and Substance Abuse (ODMHSAS) and meets OHCA requirements to perform case management services, as described in OAC 317:30-5-240 through 317:30-5-249.

(E) Staff providing behavior redirection services must have current certification and required updates in nationally recognized behavior management techniques, such as Controlling Aggressive Patient Environment (CAPE) or MANDT. Additionally, staff providing these services must receive initial and ongoing training in at least one (1) of the following areas:

(i) trauma informed methodology,

(ii) anger management,

(iii) crisis intervention,

(iv) normal child and adolescent development and the effect of abuse,

(v) neglect and/or violence on such development,

(vi) grief and loss issues for children in out of home placement,

(vii) interventions with victims of physical, emotional and sexual abuse,

(viii) care and treatment of children with attachment disorders,

(ix) care and treatment of children with hyperactive, or attention deficit, or conduct disorders,

(x) care and treatment of children, youth and families with substance abuse and chemical dependency disorders,

(xi) passive physical restraint procedures,

(xii) procedures for working with delinquents or the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

(F) In addition, Behavioral Management staff must have access to consultation with an appropriately licensed mental health professional.

**317:30-5-1044. Payment rates**

A per diem rate is established for each residential level of care in which behavior management services are provided. ~~The payment rate is based upon a sample analysis of the average annual~~

~~allowable cost of providing the program components of behavior management services using facility time study and cost reports of the OHCDS and the facilities under contract to them.~~ The payment is an ~~all inclusive~~all-inclusive daily rate for all behavior management services provided under the auspices of the ~~OHCDS~~Organized Health Care Delivery System (OHCDS). Room and ~~Board~~board costs, educational costs and related administrative costs are not reimbursable and are excluded from the calculation of the daily rate. ~~RBMS services~~Residential Behavioral Management Services (RBMS) are limited to a maximum of one (1) service per day per eligible recipient.

**317:30-5-1046. Documentation of records and records review**

(a) The ~~OHCDS~~Organized Health Care Delivery System (OHCDS) and the facilities with whom it contracts must maintain appropriate records system. Current individual plans of care, case files, and progress notes are maintained in the facilities' files during the time the child or youth is receiving services. All services rendered must be reflected by documentation in the case records.

(b) ~~OHCA~~The Oklahoma Health Care Authority (OHCA) and the Centers for Medicare and Medicaid Services (CMS) may evaluate through inspection or other means, the quality, appropriateness and timeliness of services provided by the OHCDS or facilities with whom it contracts.

(c) All ~~residential behavioral management services~~Residential Behavioral Management Services (RBMS) in group settings ~~and non-secure diagnostic and evaluation centers~~ must be reflected by documentation in the patients' records. Individual, group, family, and alcohol and other drug counseling and social and basic living skills development services must include all of the following:

(1) date;
(2) start and stop time for each session;
(3) signature of the therapist/staff providing service;
(4) credentials of therapist/staff providing service;
(5) specific problem(s) addressed (problem must be identified on individualized plan of care);
(6) methods used to address problem(s);
(7) progress made toward goals;
(8) patient response to the session or intervention; and
(9) any new problem(s) identified during the session.