

## **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:** November 19, 2019

The proposed policy consists of emergency rule changes. The proposed policy was presented at the July 2, 2019 Tribal Consultation. This proposal is scheduled to be presented to the Medical Advisory Committee on November 7, 2019 and the OHCA Board of Directors on November 20, 2019.

**Reference: APA WF 19-09**

### **SUMMARY:**

**SUPPORT Act** - The proposed revisions to SoonerCare eligibility policy are necessary to comply with new federal law.

### **LEGAL AUTHORITY**

The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; 42 U.S.C. § 1396a(a)(84); 42 C.F.R. § 435.1009; 42 C.F.R. § 435.1010.

### **RULE IMPACT STATEMENT:**

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

TO: Maria Maule  
Legal Services

FROM: Harvey Reynolds  
Federal and State Authorities

SUBJECT: Rule Impact Statement  
APA WF # 19-09

#### **A. Brief description of the purpose of the rule:**

The proposed revisions are in response to federal law passed in October 2018, which provides that individuals under the age of twenty-one, or individuals under the age of twenty-six in the former foster care eligibility group, who become incarcerated,

shall not have their eligibility terminated. Eligibility will instead be suspended for the duration of the incarceration. Revisions outline that OHCA's current policy, which states that only inpatient services are covered for incarcerated individuals, remains unchanged. Additionally, revisions outline that a redetermination of eligibility based on information known to OHCA will be conducted prior to the inmate's release without requiring a new application. Eligibility will be restored to the date the inmate is released from custody, if the individual meets all other eligibility requirements. The process of restoring SoonerCare eligibility to the date the individual is released from incarceration will involve collaboration between the OHCA, Oklahoma Department of Human Services, Oklahoma Office of Juvenile Affairs, and the Oklahoma Department of Corrections.

- 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 under the age of twenty-one and individuals who are in the former foster care eligibility group, who become incarcerated, are most likely to 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 who are under age twenty-one and others who are under age twenty-six who aged out of foster care. Previous to these proposed changes, if a member was incarcerated, his or her eligibility would have been terminated. The proposed revisions allow for his or her eligibility to be suspended and subsequently restored upon release from incarceration, subject to a redetermination of eligibility.

- 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 impact of the proposed rule changes upon any classes of persons or 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:

The budget impact for State Fiscal Year (SFY) 2020 is \$227,512.28, of which \$77,308.67 is state share. The budget impact for future years beginning in SFY 2021 is \$341,268.42, of which \$115,963.01 is state share.

- 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 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 have a benefit to the public health. The proposed rule changes are based on new Federal law that is designed to benefit the public health by expediting Medicaid eligibility for someone reentering the community after incarceration, and thus expediting access to care for any adverse health conditions.

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

The agency does anticipate a detrimental effect on the public health if the proposed rule changes are not implemented due to the reasons cited in I.

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

Prepared date: September 26, 2019

**RULE TEXT:**

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

**SUBCHAPTER 6. SOONERCARE FOR  
PREGNANT WOMEN AND FAMILIES WITH CHILDREN**

**PART 5. DETERMINATION OF ELIGIBILITY FOR  
SOONERCARE FOR PREGNANT WOMEN AND FAMILIES WITH CHILDREN**

**317:35-6-45. Eligibility for inmates**

(a) The Oklahoma Health Care Authority (OHCA) shall receive applications from and make eligibility determinations for individuals residing in correctional institutions, including juvenile facilities. However, the SoonerCare program will only pay for services rendered to individuals residing in a correctional institution as specified in Oklahoma Administrative Code (OAC) 317:35-5-26.

(b) In accordance with federal law, including, but not limited to, 42 United States Code (U.S.C.) § 1396a(a)(84), individuals residing in correctional institutions who are under the age of twenty-one (21) or who meet the former foster care child requirements found at OAC 317:35-5-2, shall have their eligibility suspended for the duration of the incarceration period, except for periods of time that inpatient services are provided as specified in OAC 317:35-5-26.

(c) The effective date of the suspension is the calendar day following the date on which an individual described in (b) of this section becomes incarcerated.

(d) A redetermination of eligibility for an individual described in (b) of this section shall be conducted prior to release to determine if the individual continues to meet the eligibility requirements for SoonerCare. A new application will not be required to redetermine eligibility.

(e) Suspended eligibility shall be restored to the release date after a redetermination of eligibility, when:

(1) The Oklahoma Department of Human Services (DHS), using the release date supplied by the Oklahoma Office of Juvenile Affairs (OJA) or the Oklahoma Department of Corrections (DOC) removes the suspension;

(2) The individual reports his or her release to the Oklahoma Health Care Authority (OHCA) within ten (10) calendar days of the release date; or

(3) The individual reports his or her release to OHCA more than ten (10) calendar days from the release date, and there is good cause for the delay in reporting.