

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 15, 2019

The proposed policy is a Permanent Rule. The proposed policy was presented at the November 6, 2018 Tribal Consultation and the January 17, 2019 Medical Advisory Committee. Additionally, this proposed change will be presented at a Public Hearing scheduled for January 15, 2020 and to the OHCA Board of Directors on January 22, 2020.

Reference: APA WF 19-04

SUMMARY:

Eligibility Redetermination as Indicated by Returned Mail – The proposed rule changes comply with federal regulations regarding residency requirements and returned mail indicating a potential change in circumstances. Revisions allow a member's eligibility to be terminated if mail is returned to the agency with address unknown, and the Oklahoma Health Care Authority has made reasonable attempts to verify the member's current address.

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 Code of Federal Regulations (CFR) § 435.916(d); 42 CFR § 457.343; 42 CFR § 431.213; and 42 CFR § 431.231.

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 # 19-04

A. Brief description of the purpose of the rule:

Policy will be added to comply with the federal regulation at 42 Code of Federal Regulations § 435.916(d), which requires a prompt redetermination of eligibility whenever information is received about a change in a member's circumstances that may affect eligibility. In accordance with the new policy, a member's eligibility will be terminated if his or her mail is returned to the agency as unforwardable, with address unknown, and the Oklahoma Health Care Authority (OHCA) has made reasonable but unsuccessful attempts to verify the member's current address. Per 42 CFR §§ 431.213 and 431.231, advance notice is not required to be given to the member when eligibility is terminated due to returned mail; however, notice will be sent to the member by mail and by email, if the agency has an email address on file. Notice will also be posted to the member's online SoonerCare account. Additionally, if the member's whereabouts become known within the eligibility period, eligibility will be reinstated. Rules and procedures for terminating eligibility due to returned mail are employed by other states' Medicaid agencies, including those of Alabama, Arizona, Ohio, New Jersey, New York, Oregon, and Colorado. **The aforementioned proposed rules were promulgated through the Emergency Rule 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:

SoonerCare members whose eligibility is determined through the online enrollment system at OHCA and who have their eligibility discontinued because they have not reported a change of address as required by policy and have not supplied a forwarding address to the post office will 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 will benefit the taxpayers of Oklahoma by ensuring that OHCA is managing the SoonerCare program in an efficient manner.

- 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 has determined the proposed rule change will not result in any additional costs and/or savings to the agency.

- 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 reduce risks to the public health, because they help ensure that members whose whereabouts are unknown, as indicated by mail returned to the agency as unforwardable, will no longer continue to be eligible.

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

The agency anticipates that in the absence of these rule changes, members whose mail has returned to the agency as unforwardable, and who have possibly moved out of state, will continue to be eligible for SoonerCare.

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

Prepared date: August 1, 2019

RULE TEXT:

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

SUBCHAPTER 5. ELIGIBILITY AND COUNTABLE INCOME

PART 3. NON-MEDICAL ELIGIBILITY REQUIREMENTS

317:35-5-26. Residence requirements; residents of public institutions; homeless persons; and residents of IHS, BIA or Tribal controlled dormitories

(a) **Residence.** To be eligible for SoonerCare services, the applicant must be residing in the State of Oklahoma with intent to remain at the time the medical service is received. A durational residence requirement is not imposed.

(1) Temporary absence from the State, with subsequent returns to the State, or intent to return when the purposes of the absence have been accomplished, does not interrupt continuity of Oklahoma residence.

(2) Oklahoma residence does not include transients or visitors passing through the state but does not preclude persons who do not have a fixed address if intent is established.

(3) Intent to remain or return is defined as a clear statement of plans to remain or return in addition to other evidence and/or corroborative statements of others.

(4) When a non-resident makes application for SoonerCare benefits, the local office provides services necessary to make available to the applicant any SoonerCare services for which he/she might be eligible from his/her state of residence. The local office contacts the state or county of the applicant's residence to explore possible eligibility for medical benefits from the state and to obtain information needed for the determination of medical eligibility for the services received while in Oklahoma.

(5) If a member's whereabouts are unknown, as indicated by the return of unforwardable agency mail, refer to Oklahoma Administrative Code 317:35-5-67.

(b) **Individuals residing in institutions (correctional facilities and institutions for mental disease).** The SoonerCare program will only pay for services rendered to adults (21 through 64 years of age) who are inpatients in an institution for mental disease (IMD), juveniles in the custody of the Office of Juvenile Affairs who are inmates in a state-owned and operated facility, or inmates in a correctional facility, when these individuals are admitted as an inpatient to a hospital, nursing facility, juvenile psychiatric facility or an intermediate care facility for ~~the mentally retarded~~ individuals with intellectual disabilities and meet all other eligibility requirements.

(c) **Homeless individuals.** Individuals are not required to have a fixed address in order to be eligible for assistance. Individuals who lack a fixed or regular residence, who have temporary accommodations, i.e., supervised shelters, residence of other individuals, a hallway, bus station, car or other similar places, are considered as "homeless".

(d) **Individuals residing in IHS, BIA or Tribal controlled dormitories.** Individuals that reside in a facility which provides students boarding and lodging on a temporary residential basis for the purpose of attending a Bureau-operated or Indian-controlled contract or public school are considered Oklahoma residents for SoonerCare eligibility purposes.

PART 7. APPLICATION AND ELIGIBILITY DETERMINATION PROCEDURES

3317:35-5-67. Returned mail

If the member's whereabouts are unknown, as indicated by the return of unforwardable agency mail directed to the member, and the Oklahoma Health Care Authority has made reasonable attempts to verify the member's current address, the member's eligibility will be discontinued. Notice thereof will be sent to the member by

mail and by electronic notice. If the member's whereabouts become known within the eligibility period, eligibility shall be reinstated in accordance with Section 431.231(d) of Title 42 of the Code of Federal Regulations. If the member's whereabouts become known after the eligibility period, a new application will be required.

DRAFT