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, 2020

The proposed policy is a Permanent Rule. The proposed policy was presented at the November 5, 2019 Tribal Consultation. Additionally, this proposed change will be presented at a Public Hearing scheduled for January 15, 2020. This proposal is scheduled to be presented to the Medical Advisory Committee on January 9, 2020 and the OHCA Board of Directors on January 22, 2020.
Reference: APA WF 19-23

SUMMARY:
Free-Standing Birthing Centers — The policy for free-standing Birthing Centers is being revoked as this type of provider no longer exists in Oklahoma.

LEGAL AUTHORITY
The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; and the Oklahoma Health Care Authority Board.

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 # 19-23

A. Brief description of the purpose of the rule:

The policy for free-standing birthing centers is being revoked as this type of provider no longer exists in Oklahoma.

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:

No classes of persons will be affected by the proposed rule. This rule 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:

No classes of person will benefit from this rule change.

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 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 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 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 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. 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 should not have any effect on the public health, safety or environment. The proposed rule is 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: September 9, 2019

RULE TEXT:

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

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 87. BIRTHING CENTERS

317:30-5-890. Eligible providers [REVOKED]

~~Eligible providers are birthing centers that are currently licensed by the Oklahoma State Health Department and meet the requirements listed in (1)-(5) of this subsection:~~

~~(1) Have a current written agreement with a board certified Obstetrician-Gynecologist (OB-GYN) to provide coverage for consultation, collaboration or referral services as defined by the American College of Nurse-Midwives.~~

~~(2) Have a current medical director who is a board certified OB-GYN and is responsible for establishing patient protocols and other functions as defined in requirements for state licensure. This individual may, or may not, be the physician providing individual patient coverage for consultation, collaborative or referral service.~~

~~(3) Have a written agreement with a referral hospital which is a Class II hospital. Class II hospital is defined as a facility with 24 hour availability of OB-GYN and capability of performing a C-section within 30 minutes of the decision to operate. The 30 minute timeframe is subject to each hospital's unique circumstance, logistical issues that include, but are not limited to, obtaining informed consent, transporting the patient, and any other potential problems that may arise.~~

~~(4) Must be accredited by the Commission for the Accreditation of Freestanding Birth Centers.~~

~~(5) Have a current contract on file with the Oklahoma Health Care Authority.~~

317:30-5-890.1 Definitions [REVOKED]

~~The following words or terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:~~

~~**"Birthing center"** means a freestanding facility, place or institution, which is maintained or established primarily for the purpose of providing services of a certified midwife or licensed medical doctor to assist or attend a woman in delivery and birth, and where a woman is scheduled in advance to give birth following a normal, uncomplicated, low-risk pregnancy.~~

~~**"Certified Nurse Midwife"** means a person educated in the discipline of nursing and midwifery, certified by the American College of Nurse-Midwives (ACNM) and licensed by the state to engage in the practice of midwifery and as a registered nurse.~~

~~**"Low-risk"** means a normal, uncomplicated prenatal course as determined by adequate prenatal care and prospects for a normal, uncomplicated birth as defined by generally accepted criteria of maternal and fetal health.~~

~~**"Newborn"** means an infant during the first 28 days following birth.~~

317:30-5-891. Coverage by category [REVOKED]

~~(a) **Adults.** Payment is made for birthing center services for adults and includes admission to the birthing center of low-risk, uncomplicated pregnancies, with an anticipated spontaneous vaginal delivery for the period of labor and delivery.~~

~~(b) **Newborn.** Coverage for newborns within scope of practice as defined by state law.~~

~~(c) **Individuals eligible for Part B of Medicare.** Birthing center services provided to Medicare eligible recipients should be billed directly to the fiscal agent.~~

317:30-5-892. Reimbursement [REVOKED]

~~(a) Payment rates are based on a geographic adjustment made for centers in rural and urban areas. A birthing center will be designated as an urban or rural entity based on the definition of urban and rural counties used by the Medicare program for reimbursement purposes. The urban areas (counties) are those inside the Metropolitan Statistical Areas (MSA) and the rural areas (counties) are those outside the MSA.~~

~~(1) Urban areas:~~

~~(A) Canadian~~
~~(B) Cleveland~~
~~(C) Comanche~~
~~(D) Creek~~
~~(E) Garfield~~
~~(F) Logan~~
~~(G) McClain~~
~~(H) Oklahoma~~
~~(I) Osage~~
~~(J) Pottawatomie~~
~~(K) Rogers~~
~~(L) Sequoyah~~
~~(M) Tulsa~~
~~(N) Wagoner~~

~~(2) Rural areas:~~

~~(A) Adair~~
~~(B) Alfalfa~~
~~(C) Atoka~~
~~(D) Beaver~~
~~(E) Beckham~~
~~(F) Blaine~~
~~(G) Bryan~~
~~(H) Caddo~~
~~(I) Carter~~

~~(J) Cherokee~~
~~(K) Choctaw~~
~~(L) Cimarron~~
~~(M) Coal~~
~~(N) Cotton~~
~~(O) Craig~~
~~(P) Custer~~
~~(Q) Delaware~~
~~(R) Dewey~~
~~(S) Ellis~~
~~(T) Garvin~~
~~(U) Grady~~
~~(V) Grant~~
~~(W) Greer~~
~~(X) Harmon~~
~~(Y) Harper~~
~~(Z) Haskell~~
~~(AA) Hughes~~
~~(BB) Jackson~~
~~(CC) Jefferson~~
~~(DD) Johnston~~
~~(EE) Kay~~
~~(FF) Kingfisher~~
~~(GG) Kiowa~~
~~(HH) Latimer~~
~~(II) Leflore~~
~~(JJ) Lincoln~~
~~(KK) Love~~
~~(LL) McCurtain~~
~~(MM) McIntosh~~
~~(NN) Major~~
~~(OO) Marshall~~
~~(PP) Mayes~~
~~(QQ) Murray~~
~~(RR) Muskogee~~
~~(SS) Noble~~
~~(TT) Nowata~~
~~(UU) Okfuskee~~
~~(VV) Okmulgee~~
~~(WW) Ottawa~~
~~(XX) Pawnee~~
~~(YY) Payne~~
~~(ZZ) Pittsburg~~
~~(AAA) Pontotoc~~
~~(BBB) Pushmataha~~
~~(CCC) Roger Mills~~
~~(DDD) Seminole~~

~~(EEE) Stephens~~
~~(FFF) Texas~~
~~(GGG) Tillman~~
~~(HHH) Washington~~
~~(III) Washita~~
~~(JJJ) Woods~~
~~(KKK) Woodward~~

~~(b) Payment to a birthing center on behalf of a Medicaid client is an all-inclusive facility payment and represents payment in full for the birthing center services. Separate payment will be made for the midwife or physician obstetrical care, delivery and postpartum care as appropriate.~~

~~(1) Urban Birthing Center: Unit 1, Limit 1 each 9 months.~~
~~(2) Rural Birthing Center: Unit 1, Limit 1 each 9 months.~~

317:30-5-893. Billing [REVOKED]

~~Billing for birthing center services will be on HCFA-1500. Claims must be submitted in accordance with guidelines found at OAC 317:30-3-11 and 317:30-3-11.1.~~