

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 to the Medical Advisory Committee on January 9, 2020 and the OHCA Board of Directors on January 22, 2020.

Reference: APA WF 19-36

SUMMARY:

Programs of All-Inclusive Care for the Elderly (PACE) – The proposed revisions provide PACE members clarification on the enrollment/disenrollment process. Revisions will also add language that permits a PACE organization to be a non-profit or for-profit entity.

LEGAL AUTHORITY

The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; SB 888, codified at 56 U.S.C. § 1017.6; Social Security Act 1894(a)(3)(B), codified at 42 U.S.C. § 1395eee and 1934(a)(3)(B), codified at 42 U.S.C. § 1396u(4)

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA OKLAHOMA HEALTH CARE AUTHORITY

TO: Maria Maule
Legal Services

FROM: Carmen Johnson
Federal and State Authorities

SUBJECT: Rule Impact Statement
APA WF # 19-36

A. Brief description of the purpose of the rule:

The proposed revisions will bring the OHCA into compliance with Senate Bill (SB) 888, allowing a PACE organization to engage in enrollment practices throughout the entirety of each month; therefore, making the enrollment effective date the first day of the following month. Additionally, this SB will allow for PACE participants to enroll, upon signing an enrollment agreement, and will also allow PACE participants to provide notice of voluntary disenrollment at any time for no cause. Further revisions will add language to allow PACE providers to either be a non-profit or for-profit entity to align with the Social Security Act sections 1894(a)(3)(B) and 1934(a)(3)(B).

- 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:

The class of persons most affected by the proposed rule will most likely be PACE participants. 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 change will benefit PACE participants as it will allow flexibility to enroll and voluntary disenroll with no cause.

- 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: November 8, 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 7. APPLICATION AND ELIGIBILITY DETERMINATION PROCEDURES

317:35-5-63. Agency responsible for determination of eligibility

(a) **Determination of eligibility by ~~OHCA~~ Oklahoma Health Care Authority (OHCA).** OHCA is responsible for determining eligibility for the following eligibility groups:

- (1) children
- (2) newborns deemed eligible
- (3) pregnant women
- (4) pregnancy-related services under Title XXI
- (5) parents and caretaker relatives
- (6) former foster care children
- (7) Oklahoma Cares Breast and Cervical Cancer program
- (8) SoonerPlan Family Planning program.
- (9) Programs of All-Inclusive Care for the Elderly

(b) **Determination of eligibility by ~~OKDHS~~ DHS.** ~~OKDHS~~ DHS is responsible for determining eligibility for the following eligibility groups:

- (1) TANF recipients
- (2) recipients of adoption assistance or kinship guardianship assistance
- (3) state custody
- (4) Refugee Medical Assistance
- (5) aged
- (6) blind
- (7) disabled
- (8) Tuberculosis
- (9) QMBP
- (10) QDWI
- (11) SLMB
- (12) QI-1
- (13) Long term care services
- (14) alien emergency services.

(c) **Determination of eligibility for programs offered through the Health Insurance Exchange.** Effective October 1, 2013, OHCA assesses applicants who are found to be ineligible for SoonerCare for potential eligibility for affordable insurance programs offered through the Health Insurance Exchange. OHCA does not determine eligibility or ineligibility for those programs. OHCA facilitates the determination for those affordable insurance programs by forwarding applicants' electronic applications to the Health Insurance Exchange.

SUBCHAPTER 18. PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

317:35-18-3. Definitions

The words and terms used in this Subchapter have the following meanings, unless the context clearly indicates otherwise:

- (1) **"American Indian/Alaska Native (AI/AN)"** means an individual of Native American descent who has or is eligible for a Certificate of Degree of Indian Blood (CDIB) card;
- (2) **"Capitation"** means the per member per month (pmpm) amount that the Oklahoma Health Care Authority pays PACE providers for PACE compensable services.
- (3) **"Interdisciplinary Team (IDT)"** means the team of persons who interact and collaborate to assess PACE participants and plan for their care as set forth in 42 CFR 460.102. The IDT may also include the PACE participant's personal representative or advocate.
- (4) **"Participant"** means an individual enrolled in a PACE program.
- (5) **"Program agreement"** means the three-party agreement between the PACE provider, Centers for Medicare & Medicaid Services (CMS), and OHCA.
- (6) **"Provider"** means the non-profit or for-profit entity that delivers required PACE services under an agreement with OHCA and CMS.
- (7) **"Service area"** means the geographic area served by the provider agency, according to the program agreement.
- (8) **"State Administering Agency (SAA)"** means the Oklahoma Health Care Authority.