

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 14, 2020

The proposed policy is an Emergency Rule. The proposed policy was presented at the November 5, 2019 Tribal Consultation. Additionally, this proposal is scheduled to be presented to the Medical Advisory Committee on March 12, 2020 and the OHCA Board of Directors on March 18, 2020.

Reference: APA WF # 20-01

SUMMARY:

High-Investment Drugs Carve-Out – The proposed revisions will allow for reimbursement of high-investment drug therapies outside of the inpatient and outpatient hospital payment methodologies. Revisions will also align policy with current practice and correct grammatical errors.

LEGAL AUTHORITY

The Oklahoma Health Care Authority Act, Section 5007 of Title 63 of Oklahoma Statutes; the Oklahoma Health Care Authority Board;

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA OKLAHOMA HEALTH CARE AUTHORITY

TO: Maria Maule
Legal Services

FROM: Vanessa Andrade
Federal and State Authorities

SUBJECT: Rule Impact Statement
APA WF # 20-01

A. Brief description of the purpose of the rule:

The proposed rule changes will allow certain high-investment drugs to be reimbursed outside of the inpatient and outpatient hospital payment methodologies. Additionally, the proposed rule changes will require inpatient and outpatient hospitals to seek prior authorization of high-investment drugs and follow

applicable requirements and conditions of payment. Lastly, revisions will align policy with current practice and correct grammatical errors.

- 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 who need access to high-investment drugs in inpatient and outpatient hospital settings will most likely be affected by the proposed rule changes.

Inpatient and outpatient hospital providers will most likely be affected by the proposed rule changes.

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

The proposed rule changes to allow high-investment drugs to be carved out of hospital payment methodologies will benefit SoonerCare members by increasing availability of hospital providers that will perform needed services and provide needed drugs.

The proposed rule changes to allow high-investment drugs to be carved out of hospital payment methodologies will benefit inpatient and outpatient hospitals by providing adequately reimbursement for the cost of providing the drugs.

The proposed rule changes to allow high-investment drugs to be carved out of hospital payment methodologies will benefit the OHCA by providing the agency the ability to collect rebates through the Medicaid Drug Rebate Program and with the option to negotiate additional rebates through the supplemental and the value based drug rebate programs.

- 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 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 effect on

state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency:

The proposed rule changes will be budget neutral as high-investment drugs are included in the pharmacy budget.

- 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:

There is no economic impact on political subdivisions.

- 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 effect 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: November 21, 2019

Modified: January 8, 2020

RULE TEXT:

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

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 1. GENERAL SCOPE AND ADMINISTRATION

317:30-3-31. Prior authorization for health care-related goods and services

(a) Under the ~~Oklahoma~~ SoonerCare program, there are health care-related goods and services that require prior authorization (PA) by the Oklahoma Health Care Authority (OHCA). PA is a process to determine if a prescribed good or service is medically necessary; it is not, however, a guarantee of member eligibility or of SoonerCare payment. All goods or services requiring PA will be authorized on the basis of information submitted to OHCA, including:

(1) ~~the~~The relevant code, as is appropriate for the good or service requested (for example, Current Procedural Terminology (CPT) codes for services; Healthcare Common Procedure Coding System (HCPCS) codes, for durable medical equipment; or National Drug Codes (NDC), for drugs); and/or

(2) ~~any~~Any other information required by OHCA, in the format as prescribed. The OHCA authorization file will reflect the codes that have been authorized.

(b) The OHCA staff will issue a determination for each requested good or service requiring a PA. The provider will be advised of that determination, either through the provider portal, or for requests made for out-of-state services, meals, mileage, transportation and lodging, by letter or other written communication. The member will be advised by letter. Policy regarding member appeal of a denied PA is available at Oklahoma Administrative Code (OAC) 317:2-1-2.

(c) The following is an inexhaustive list of the goods and services that may require a PA, for at least some SoonerCare member populations, under some circumstances. This list is subject to change, with OHCA expressly reserving the right to add a PA requirement to a covered good or service or to remove a PA requirement from a covered good or service.

(1) Physical therapy for children;

(2) Speech therapy for children;

(3) Occupational therapy for children;

(4) High Tech Imaging (for ex. CT, MRA, MRI, PET);

(5) Some dental procedures, including, but not limited to orthodontics (orthodontics are covered for children only);

(6) Inpatient psychiatric services;

(7) Some prescription drugs ~~and/or~~, physician administered, and/or high-investment drugs;

(8) Ventilators;

- (9) Hearing aids (covered for children only);
 - (10) Prosthetics;
 - (11) High risk ~~OB~~obstetrical (OB) services;
 - (12) Drug testing;
 - (13) Enteral therapy (covered for children only);
 - (14) Hyperalimentation;
 - (15) Early and Periodic Screening, ~~Diagnosis~~Diagnostic and Treatment (EPSDT) services, supplies, or equipment that are determined to be medically necessary for a child or adolescent, and which are included within the categories of mandatory and optional services in Section 1905(a) of Title XIX, regardless of whether such services, supplies, or equipment are listed as covered in ~~Oklahoma's~~the Oklahoma Medicaid State Plan;
 - (16) Adaptive equipment for persons residing in private ~~Intermediate Care Facilities for Individuals with Intellectual Disabilities~~intermediate care facilities for individuals with intellectual disabilities (ICF/IID);
 - (17) Some ancillary services provided in a ~~long term~~long-term care hospital or in a long term care facility;
 - (18) Rental of hospital beds, support surfaces, oxygen and oxygen related products, continuous positive airway pressure devices (CPAP and BiPAP), pneumatic compression devices, and lifts;
 - (19) Allergy testing and immunotherapy;
 - (20) Bariatric surgery;
 - (21) Genetic testing;
 - (22) Out-of-state services; and
 - (23) Meals, travel, and lodging.
- (d) ~~Providers should refer to the relevant Part of OAC 317:30-5 for additional, provider-specific guidance on PA requirements. Providers may also refer to the OHCA Provider Billing and Procedure Manual, available on OHCA's website, and the SoonerCare Medical Necessity Criteria for Inpatient Behavioral Health Services Manual to see how and/or where to submit PA requests, as well as to find information about documentation.~~Providers should refer to the provider-specific Part for PA requirements. For additional PA information and submission requests, providers may refer to the OHCA Provider Billing and Procedure Manual and the SoonerCare Medical Necessity Criteria for Inpatient Behavioral Health Services Manual available at <https://okhca.org>.

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 3. HOSPITALS

317:30-5-42.20. High-investment drugs - outpatient hospitals

(a) The Oklahoma Health Care Authority (OHCA) designates certain high-investment drugs to be reimbursed separately pursuant to the Oklahoma Medicaid State Plan for members receiving services at an

outpatient hospital.

(b) The list of OHCA-designated high-investment drugs is set forth on the Pharmacy page of the OHCA website, which is available at <https://okhca.org>. This list may be updated as deemed necessary.

(c) All high-investment drugs require prior authorization [refer to Oklahoma Administrative Code (OAC) 317:30-3-31], and the outpatient hospital stay continues to be subject to applicable medical necessity criteria requirements [refer to OAC 317:30-3-1(f)].

(d) OHCA-designated high-investment drugs provided to eligible members, when treated in out-of-state outpatient hospitals, may be reimbursed in the same manner as in-state hospitals. Out-of-state outpatient hospitals must meet applicable out-of-state conditions of payment set forth in OAC 317:30-3-89 through 317:30-3-92, and in the Oklahoma Medicaid State Plan.

317:30-5-47. Reimbursement for inpatient hospital services

Reimbursement will be made for inpatient hospital services in the following manner:

(1) Covered inpatient services provided to eligible SoonerCare members admitted to in-state acute care and critical access hospitals will be reimbursed the lesser of the billed charges or the Diagnosis Related Group (DRG) amount. In addition to the billed charges or DRG payment, whichever is less, an outlier payment may be made to the hospital for very high cost stays. Additional outlier payment is applicable if either the amount billed by the hospital or DRG payment, whichever applies, is less than a threshold amount of the hospital cost. Each inpatient hospital claim is tested to determine whether the claim qualified for a cost outlier payment. Payment is equal to a percentage of the cost after the threshold is met.

(2) The lesser of the billed charges or DRG amount and outlier, if applicable, represent full reimbursement for all non-physician services provided during the inpatient stay. Payment includes but is not limited to:

(A) ~~laboratory~~Laboratory services;

(B) ~~prosthetic~~Prosthetic devices, including pacemakers, lenses, artificial joints, cochlear implants, implantable pumps;

(C) ~~technical~~Technical component on radiology services;

(D) ~~transportation~~Transportation, including ambulance, to and from another facility to receive specialized diagnostic and therapeutic services;

(E) ~~pre-admission~~Pre-admission diagnostic testing performed within ~~72~~seventy-two (72) hours of admission; and

(F) ~~organ~~Organ transplants.

(3) Hospitals may submit a claim for payment only upon the final discharge of the patient or upon completion of a transfer of the patient to another hospital.

(4) Covered inpatient services provided to eligible members of the ~~Oklahoma~~ SoonerCare program, when treated in out-of-state

hospitals will be reimbursed in the same manner as in-state hospitals. Refer to OAC 317:30-3-90 and 317:30-3-91.

(5) Cases which indicate transfer from one (1) acute care hospital to another will be monitored under a retrospective utilization review policy to help ensure that payment is not made for inappropriate transfers.

(6) The transferring hospital will be paid the lesser of the calculated transfer fee or the DRG base payment amount for a non-transfer.

(7) If the transferring or discharge hospital or unit is exempt from the DRG, that hospital or unit will be reimbursed according to the method of payment applicable to the particular facility or units.

(8) Covered inpatient services provided in out-of-state specialty hospitals may be reimbursed at a negotiated rate not to exceed ~~100%~~one-hundred percent (100%) of the cost to provide the service. Negotiation of rates will only be allowed when the OHCA determines that the specialty hospital or specialty unit provides a unique (non-experimental) service required by SoonerCare members and the provider will not accept the DRG payment rate. Prior authorization is required.

(9) New providers entering the SoonerCare program will be assigned a peer group and will be reimbursed at the peer group base rate for the DRG payment methodology or the statewide median rate for per diem methods.

(10) All inpatient services are reimbursed per the methodology described in this ~~section~~Section and/or as approved under the Oklahoma ~~State-Medicaid~~ State Plan.

(11) For high-investment drugs, refer to OAC 317:30-5-47.6

317:30-5-47.6. High-investment drugs - inpatient hospitals

(a) The Oklahoma Health Care Authority (OHCA) designates certain high-investment drugs to be reimbursed separately pursuant to the Oklahoma Medicaid State Plan for members receiving services at an inpatient hospital.

(b) The list of OHCA-designated high-investment drugs is set forth on the Pharmacy page of the OHCA website, which is available at <https://okhca.org>. This list may be updated as deemed necessary.

(c) All high-investment drugs require prior authorization [refer to Oklahoma Administrative Code (OAC) 317:30-3-31], and the inpatient hospital stay continues to be subject to applicable medical necessity criteria requirements [refer to OAC 317:30-3-1(f)].

(d) OHCA-designated high-investment drugs provided to eligible members, when treated in out-of-state inpatient hospitals, may be reimbursed in the same manner as in-state hospitals. Out-of-state inpatient hospitals must meet applicable out-of-state conditions of payment set forth in OAC 317:30-3-89 through 317:30-3-92, and in the Oklahoma Medicaid State Plan.