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: May 13, 2020

Reference: APA WF 20-06B Emergency Rule

SUMMARY:
Durable medical equipment (DME) and supplies benefit moved under the scope of home health benefit — The proposed revisions are needed to comply with the Home Health final rule in which the DME and supplies benefit was revised from an optional benefit to a mandatory benefit and was made subject to the scope of the home health benefit. Prosthetics and orthotics are under a separate regulation and remain an optional benefit.

LEGAL AUTHORITY
The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; Section 6407 of the Affordable Care Act; Section 504 of the Medicare Access and CHIP Reauthorization Act of 2015; CMS-2348-F Final Rule; Public Law 114-10; 42 Code of Federal Regulations (C.F.R.) § 440.70; and 42 C.F.R. § 440.120

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA
OKLAHOMA HEALTH CARE AUTHORITY

SUBJECT: Rule Impact Statement
APA WF # 20-06B

A. Brief description of the purpose of the rule:

The proposed revisions to the PACE program policy is needed to comply with the Home Health final rule in which the DME and supplies benefit was revised from an optional benefit to a mandatory benefit and was made subject to the scope of the home health benefit. Durable medical equipment was changed to medical supplies, equipment, and appliances to match language in federal regulation.

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

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 changes are not designed to reduce any significant risks to 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:

The agency anticipates that in the absence of these rule changes, there would not be any detrimental effect on the public health, safety, and environment.

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

Prepared date: April 9, 2020

RULE TEXT:

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

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

317:35-18-6. PACE program benefits

(a) The PACE program offers a comprehensive benefit plan. A provider agency must provide a participant all the services listed

in ~~42 CFR 460.92~~Section (§) 460.92 of Title 42 of the Code of Federal Regulations (C.F.R.) that are approved by the ~~IDT.~~interdisciplinary team (IDT). The PACE benefit package for all participants, regardless of the source of payment, must include but is not limited to the following:

(1) All SoonerCare-covered services, as specified in the State's approved ~~SoonerCare plan.;~~Medicaid State Plan;

(2) ~~Interdisciplinary assessment~~IDT and treatment planning~~.~~;

(3) Primary care, including physician and nursing services~~.~~;

(4) Social work services~~.~~;

(5) Restorative therapies, including physical therapy, occupational therapy, and speech-language pathology services~~.~~;

(6) Personal care and supportive services~~.~~;

(7) Nutritional counseling~~.~~;

(8) Recreational therapy~~.~~;

(9) Transportation~~.~~;

(10) Meals~~.~~;

(11) Medical specialty services including, but not limited to the following:

(A) Anesthesiology~~.~~;

(B) Audiology~~.~~;

(C) Cardiology~~.~~;

(D) Dentistry~~.~~;

(E) Dermatology~~.~~;

(F) Gastroenterology~~.~~;

(G) Gynecology~~.~~;

(H) Internal medicine~~.~~;

(I) Nephrology~~.~~;

(J) Neurosurgery~~.~~;

(K) Oncology~~.~~;

(L) Ophthalmology~~.~~;

(M) Oral surgery~~.~~;

(N) Orthopedic surgery~~.~~;

(O) Otorhinolaryngology~~.~~;

(P) Plastic surgery~~.~~;

(Q) Pharmacy consulting services~~.~~;

(R) Podiatry~~.~~;

(S) Psychiatry~~.~~;

(T) Pulmonary disease~~.~~;

(U) Radiology~~.~~;

(V) Rheumatology~~.~~;

(W) General surgery~~.~~;

(X) Thoracic and vascular surgery~~.~~; and

(Y) Urology.

(12) Laboratory tests, x-rays, and other diagnostic procedures~~.~~;

(13) Drugs and biologicals~~.~~;

(14) Prosthetics, orthotics, ~~durable medical equipment,~~medical supplies, equipment, and appliances, corrective vision devices, such as eyeglasses and lenses, hearing aids, dentures, and repair and maintenance of these items~~.~~;

(15) Acute inpatient care, including the following:

(A) Ambulance~~.~~;

(B) Emergency room care and treatment room services~~.~~;

(C) Semi-private room and board~~.~~;

(D) General medical and nursing services~~.~~;

(E) Medical surgical/intensive care/coronary care unit~~.~~;

(F) Laboratory tests, x-rays, and other diagnostic procedures~~.~~;

(G) Drugs and biologicals~~.~~;

(H) Blood and blood derivatives~~.~~;

(I) Surgical care, including the use of anesthesia~~.~~;

(J) Use of oxygen~~.~~;

(K) Physical, occupational, respiratory therapies, and speech-language pathology services~~.~~; and

(L) Social services.

(16) Nursing facility (NF) care, including:

(A) Semi-private room and board;

(B) Physician and skilled nursing services;

(C) Custodial care;

(D) Personal care and assistance;

(E) Drugs and biologicals;

(F) Physical, occupational, recreational therapies, and speech-language pathology, if necessary;

(G) Social services; and

(H) Medical supplies, equipment, and appliances.

(17) Other services determined necessary by the ~~interdisciplinary team~~IDT to improve and maintain the participant's overall health status.

(b) The following services are excluded from coverage under PACE:

(1) Any service that is not authorized by the ~~interdisciplinary team,~~IDT, even if it is a required service, unless it is an emergency service.

(2) In an inpatient facility, private room and private duty nursing (PDN) services (unless medically necessary), and non-medical items for personal convenience such as telephone charges and radio or television rental (unless specifically authorized by the ~~interdisciplinary team~~IDT as part of the participant's plan of care).

(3) Cosmetic surgery, which does not include surgery that is required for improved functioning of a malformed part of the body resulting from an accidental injury or for reconstruction following mastectomy.

(4) Experimental medical, surgical, or other health procedures.

(5) Services furnished outside of the United States, except as follows:

(A) ~~in~~In accordance with 42 ~~CFR~~C.F.R. § 424.122 through 42 ~~CFR~~ C.F.R. § 424.124, and

(B) ~~as~~As permitted under the State's approved Medicaid ~~plan.~~State Plan.

(c) In the event that a PACE participant is in need of permanent placement in a ~~nursing facility,~~NF, a Medicaid premium will be imposed. OKDHS will calculate a vendor co-payment for those participants using the same methodology as is used for any Oklahoma Medicaid member who is accessing ~~nursing facility~~NF level of care. However, for a PACE participant, the ~~participants~~participant's responsibility will be to make payment directly to the PACE provider~~;~~, the amount to be specified by the OKDHS worker. There are no other share of costs requirements for PACE.

(d) All PACE ~~Program Benefits~~program benefits are offered through the duration of the PACE participant's enrollment in the PACE program. PACE enrollment does not cease once a participant's condition necessitates or the PACE IDT recommends that ~~they~~he or she be institutionalized.