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 20-06C 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 # 20-06C

A. Brief description of the purpose of the rule:

The proposed revisions to the specialized medical supplies 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

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 40. DEVELOPMENTAL DISABILITIES SERVICES

SUBCHAPTER 5. MEMBER SERVICES

PART 9. SERVICE PROVISIONS

317:40-5-104. Specialized medical supplies (a) **Applicability.** The rules in this ~~section~~Section apply to ~~specialized medical supplies~~medical supplies, equipment, and appliances provided

through ~~Home and Community Based Services (HCBS) Waivers~~home and community-based waiver services operated by the Oklahoma Department of Human Services (OKDHS) Developmental Disabilities Services ~~Division (DDSD).~~(DDS).

(b) **General information.** ~~Specialized medical supplies~~Medical supplies, equipment, and appliances include supplies specified in the plan of care that enable the member to increase his or her ability to perform activities of daily living. ~~Specialized medical supplies~~Medical supplies, equipment, and appliances include the purchase of ancillary supplies not available through SoonerCare.

(1) ~~Specialized medical supplies~~Medical supplies, equipment, and appliances must be included in the member's plan and arrangements for this service must be made through the member's case manager. Items reimbursed with ~~Home and Community Based Services~~home and community-based waiver services (HCBS) funds are in addition to any supplies furnished by SoonerCare.

(2) ~~Specialized medical supplies~~Medical supplies, equipment, and appliances meet the criteria for service necessity given in OAC 340:100-3-33.1.

(3) All items meet applicable standards of manufacture, design, and installation.

(4) ~~Specialized medical supplies~~Medical supplies, equipment, and appliance providers must hold a current SoonerCare Durable Medical Equipment (DME) and/or Medical Supplies Provider Agreement with the Oklahoma Health Care Authority, and be registered to do business in Oklahoma or the state in which they are domiciled. Providers must enter into the agreement giving assurance of ability to provide products and services and agree to the audit and inspection of all records concerning goods and services provided.

(5) Items that can be purchased as~~specialized~~ medical supplies, equipment, and appliances include:

(A) ~~incontinence~~Incontinence supplies, as described in subsection (b) of this Section;

(B) ~~nutritional~~Nutritional supplements;

(C) ~~supplies~~Supplies for respirator or ventilator care;

(D) ~~decubitus~~Decubitus care supplies;

(E) ~~supplies~~Supplies for catheterization; and

(F) ~~supplies~~Supplies needed for health conditions.

(6) Items that cannot be purchased as~~specialized~~ medical supplies, equipment, and appliances include:

(A) ~~over the counter~~Over-the-counter medications(s);

(B) ~~personal~~Personal hygiene items;

(C) ~~medicine~~Medicine cups;

(D) ~~items~~Items that are not medically necessary; and

(E) ~~prescription~~Prescription medication(s).

(7) ~~Specialized medical supplies~~Medical supplies, equipment,

and appliances must be:

(A) ~~necessary~~Necessary to address a medical condition;

(B) ~~of~~Of direct medical or remedial benefit to the member;

(C) ~~medical~~Medical in nature; and

(D) ~~consistent~~Consistent with accepted health care practice standards and guidelines for the prevention, diagnosis, or treatment of symptoms of illness, disease, or disability.

(c) **Limited coverage.** Items available in limited quantities through~~ specialized~~ medical supplies, equipment, and appliances include:

(1) ~~incontinence~~Incontinence wipes, ~~300~~three-hundred (300) wipes per month;

(2) ~~non-sterile~~Non-sterile gloves, as approved by the Team;

(3) ~~disposable~~Disposable underpads, ~~60~~sixty (60) pads per month; and

(4) ~~incontinence~~Incontinence briefs, ~~180~~one-hundred and eighty (180) briefs per month.

(A) Adult briefs are purchased only in accordance with the implementation of elimination guidelines developed by the ~~Team.~~team.

(B) Exceptions to the requirement for implementation of elimination guidelines may be approved by the ~~DDSD~~DDS nurse when the member has a medical condition that precludes implementation of elimination guidelines, such as atonic bladder, neurogenic bladder, or following a surgical procedure.

(d) **Exceptions.** Exceptions to the requirements of this Section are explained in this subsection.

(1) When a member's ~~Team~~team determines that the member needs medical supplies that:

(A) ~~are~~Are not available through SoonerCare and for which no ~~Health Care Procedure Code~~healthcare common procedure code exists, the case manager e-mails pertinent information regarding the member's medical supply need to the programs manager responsible for ~~Specialized Medical Supplies.~~medical supplies, equipment, and appliances. The e-mail includes all pertinent information that supports the need for the supply, including but not limited to, quantity and purpose; or

(B) ~~exceed~~Exceed the limits stated in subsection(c) of this Section, the case manager documents the need in the ~~Individual Plan~~individual plan for review and approval per OAC 340:100-33.

(2) Approval or denial of exception requests is made on a ~~case by case~~case-by-case basis and does not override the general applicability of this Section.

(3) Approval of a ~~specialized medical supplies~~medical supplies, equipment, and appliances exception does not exceed one (1)

plan of care year.