Oklahoma Health Care Authority

It is very important that you provide your comments regarding the proposed rule change by the comment due date. Comments are directed to the Oklahoma Health Care Authority (OHCA) Proposed Changes Blog.

OHCA COMMENT DUE DATE: September 21, 2017

The proposed policy is an Emergency Rule. The proposed policy was presented at the July 11, 2017 Tribal Consultation and is scheduled to be presented to the Medical Advisory Committee on September 21, 2017 and the OHCA Board of Directors on September 27, 2017.
Reference: APA WF # 17-07

SUMMARY:
School-Based Services Policy Revisions – The proposed revisions remove unintended barriers for medical services rendered in the school setting pursuant to an Individual Education Plan.

LEGAL AUTHORITY:
The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.110; 34 CFR 300.154

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA
OKLAHOMA HEALTH CARE AUTHORITY

TO: Tywanda Cox
Federal and State Policy

FROM: Sasha Teel
Federal and State Authorities

SUBJECT: Rule Impact Statement
APA WF # 17-07

A. Brief description of the purpose of the rule:

The proposed school-based revisions remove unintended barriers for medical services rendered in the school setting pursuant to an Individual Education Plan (IEP). Revisions align with state statute that recognizes certain providers

who provide services pursuant to the Individual with Disabilities Education Act as practitioners of the healing arts. The proposed revisions would eliminate the need for prior authorization for certain services in a school setting if the therapies are documented in the child's IEP and have been prescribed or referred by a physician or other licensed practitioner of the healing arts. The Oklahoma State Department of Education will be required to be the referring entity for IEP services. The revisions remove specific references that are no longer applicable.

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, receiving services in a school setting, may be positively affected by the proposed rule as the change is intended to increase access to speech, physical and occupational therapy services. SoonerCare providers that render speech, physical or occupational therapy may also benefit from the change as mentioned the change intends to remove barriers to these services.

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

SoonerCare providers that render speech, physical or occupational therapy will benefit as unintended access barriers will be removed.

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 changes:

Oklahoma school districts will benefit from unintended access barriers being removed allowing more Medicaid therapy services being provided to students at their schools. There is no additional economic impact and there are no fee changes associated with the rule change for any other of 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:

The change will result in a positive impact to the Oklahoma school districts of about $6.5 million. The Oklahoma school districts have been providing school-based services using state only dollars and Individuals with Disability Education Act funding and will now be able to draw down federal matching funds.

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 will have a positive economic impact on Oklahoma school districts by allowing them to draw down federal dollars for speech, occupational, physical therapies rendered at their schools which will in turn save them state dollars as reflected in item E. Contracting changes are being made in order to ensure cooperation in implementing these 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 proposed rule will not have an adverse impact 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 proposed revisions will be at no cost to the agency. 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 may have a positive impact on public health as rules remove unintended barriers for medical services rendered in the school setting.

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:

The rule impact statement was prepared July 12, 2017.

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

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 103. QUALIFIED SCHOOLS AS PROVIDERS OF HEALTH RELATED SERVICES

317:30-5-1020. General provisions

(a) Payment is made to eligible qualified school providers for delivery of Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services to eligible individuals under the age of 21. School-based services must be medically necessary and have supporting documentation to be considered for reimbursement. ~~In addition, services provided in the school setting are only compensable when provided to eligible SoonerCare members pursuant to an Individual Education Plan (IEP).~~

(b) EPSDT services are comprehensive child-health services, designed to ensure the availability of, and access to, required health care resources and to help parents and guardians of SoonerCare eligible children use these resources. Effective EPSDT services assure that health problems are diagnosed and

treated early before they become more complex and their treatment more costly. The ~~Schools~~schools play a significant role in educating parents and guardians about all services available through the EPSDT program.

(c) The receipt of an identified EPSDT screening makes the SoonerCare child eligible for all necessary follow-up care that is within the scope of the SoonerCare Program. An Individualized Education Program (IEP) or Individual Family Services Plan (IFSP) entitles the SoonerCare eligible child to medically necessary and appropriate health related EPSDT treatment services. ~~For reimbursement purposes, ~~In addition to any other notification and/or consent requirements related to IEP/IFSP evaluation and/or treatments, schools must provide sufficient notification to a child's parents and obtain adequate consent from them prior ~~to rendering a medically related evaluation and/or service pursuant to an eligible SoonerCare child's IEP or IFSP, either through an IEP/IFSP addendum or a new IEP/IFSP, parental consent must be obtained ~~to accessing a child's or parent's public benefits or insurance for the first time, and annually thereafter, in accordance with 34 CFR 300.154. An IEP or IFSP serves as the plan of care for consideration of reimbursement for health related EPSDT treatment services. ~~The IEP or IFSP may not serve as an evaluation. Services that require prior authorization will need to be authorized prior to the development of the IEP or IFSP.~~ The IEP/IFSP must be completed and signed during the meeting by all required providers and individuals and must include the type, frequency, and duration of the service(s) provided, the signatures, including credentials, of the provider(s) and the direct care staff delivering services under the supervision of the professional, and the specific place of services if other than the school (e.g., field trip, home). The IEP/IFSP must also contain measurable goals for each of the identified needs. Goals must be updated to reflect the current therapy, evaluation, or service that is being provided and billed to SoonerCare. ~~In order to bill SoonerCare for services rendered in the school, including evaluations, these services must result in or be identified in the IEP.~~In order to bill SoonerCare for school-based services, these services must result from or be identified on the IEP. In addition, any and all claims submitted to OHCA for payment of medically necessary school-based services must include a referring number obtained from Oklahoma State Department of Education (OSDE).

Federal regulations require that diagnosis and treatment be provided for conditions identified during a screening whether or not they are covered under the ~~Authority's current program~~ current Medicaid state plan. Such services must be allowable

under federal Medicaid regulations and must be necessary to ameliorate or correct defects of physical or mental illnesses/conditions.
(d) Federal regulations require that the State set standards and protocols for each component of EPSDT services. The standards must provide for services at intervals which meet reasonable standards of medical and dental practice. The standards must also provide for EPSDT services at other intervals as medically necessary to determine the existence of certain physical and mental illnesses or conditions. SoonerCare providers who offer EPSDT screenings must assure that the screenings they provide meet the minimum standards for those services in order to be reimbursed at the level established for EPSDT services.
(e) To assure full payment for the EPSDT screening, providers must perform and document all necessary components of the screening examination. Documentation of screening services performed must be retained for future review.
(f) Evaluations must~~ be prior authorized when medically necessary and/or required and prescribed or referred by a treating physician or other practitioner of the healing arts with supporting medical documentation~~, as required, be prescribed or referred by a physician or other licensed practitioner of the healing arts. Such documentation shall include, but not be limited to, prescriptions for physical or occupational therapy, or referrals for services for individuals with speech, hearing, and language disorders, as required by 42 CFR 440.110 and in conformance with state law; provided, however, that any prescription or referral ordered by a physician or other licensed practitioner of the healing arts who has, or whose immediate family member has, a financial interest in the delivery of the underlying service shall not be valid, and services provided thereto shall not be eligible for reimbursement by OHCA. Initial evaluations (e.g. initial physical therapy evaluation)~~ that do not require a prior authorization and~~ that are performed as part of the IEP development process are compensable when the appropriate documented referral and supporting~~ medical~~ documentation are in place. Evaluations completed for educational purposes only are not compensable. All evaluations must be medically necessary and support the services billed to SoonerCare. The evaluations must be included in the IEP for reimbursement consideration. ~~A diagnosis alone is not sufficient documentation to support the medical necessity of services.~~ The child's diagnosis must clearly establish and support that the prescribed therapy is medically necessary. Evaluations must be completed annually and updated to accurately reflect the participant's current status. Evaluations include but are not limited to hearing and speech

services, physical therapy, occupational therapy, and psychological evaluations and must include the following information:

(1) ~~Medical documentation~~Documentation that supports why the member was referred for evaluation;

(2) Diagnosis;

(3) Member's strengths, needs, and interests;

(4) Recommended interventions for identified needs, including outcomes and goals;

(5) Recommended units and frequency of services; and

(6) Dated signature and credentials of professional completing the evaluation.

(g) Annual evaluations/re-evaluations are required prior to each annual IEP.

(h) No more than five SoonerCare members can be present during a group therapy session. A daily log/list must be maintained and must identify the participants for each group session.

317:30-5-1021. Eligible providers

(a) Eligible providers are local, regional, and state educational services agencies as defined by State law and the Individuals with Disabilities Education Act (IDEA), as amended in 1997. A completed contract to provide EPSDT services through the schools must be submitted to the Oklahoma Health Care Authority (OHCA). The OHCA must approve the contract in order for eligible school providers to receive reimbursement.

(b) Qualified Schools must notify OHCA of all subcontractors performing IEP related evaluations and services in the school setting prior to services being rendered. The notification must include a copy of the agreement between the school and subcontractor and must reflect the start and ending dates of the agreement for services. ~~OHCA may request that schools enroll with SoonerCare all entities and individuals that provide SoonerCare services in the school setting and may require that the rendering provider be included on any claim for payment by the school.~~All subcontractors must be enrolled with SoonerCare and if rendering services must be identified on any claim for payment as the rendering provider.

317:30-5-1023. Coverage by category

[Revised 09-12-14]

(a) **Adults.** There is no coverage for services rendered to adults.

(b) **Children.** Payment is made for compensable services rendered by local, regional, and state educational services agencies as defined by IDEA:

(1) **Child health screening.** An initial screening may be

requested by an eligible individual at any time and must be provided without regard to whether the individual's age coincides with the established periodicity schedule. Coordination referral is made to the SoonerCare provider to assure at a minimum, that periodic screens are scheduled and provided in accordance with the periodicity schedule following the initial screening. Child Health screening must adhere to the following requirements:

(A) Children enrolled in SoonerCare must be referred to their SoonerCare provider for child health screenings. In cases where the SoonerCare provider authorizes the school to perform this screen or fails to schedule an appointment within three weeks and a request has been made and documented by the school, the school may then furnish the EPSDT child health screening. Written notification must be mailed to the Soonercare member's ~~PCP~~primary care provider (PCP) prior to the school's intent to furnish and bill for the screen. Results of this screening must be forwarded to the child's SoonerCare provider.

(B) Child health screenings must be provided by a state-licensed physician (M.D. or D.O.), state-licensed nurse practitioner with prescriptive authority, or state-licensed physician assistant. Screening services must include the following:

(i) Comprehensive health and developmental history, including assessment of both physical and mental health development;

(ii) Comprehensive unclothed physical exam;

(iii) Appropriate immunizations according to the age and health history;

(iv) Laboratory test, including blood level assessment; and

(v) Health education, including anticipatory guidance.

(C) Mass screenings for any school-based service are not billable to SoonerCare, nor are screenings that are performed as a child find activity pursuant to an IDEA requirement. There must be a documented referral in place that indicates the child has an individualized need that warrants a screening to be performed.

(2) **Child health encounter.** The child health encounter may include a diagnosis and treatment encounter, a follow-up health encounter, or a home visit. A ~~Child Health Encounter~~child health encounter may include any of the following:

(A) vision

(B) hearing

(C) dental

(D) a child health history
(E) physical examination
(F) developmental assessment
(G) nutrition assessment and counseling
(H) social assessment and counseling
(I) genetic evaluation and counseling
(J) indicated laboratory and screening tests
(K) screening for appropriate immunizations
(L) health counseling and treatment of childhood illness and conditions

(3) **Diagnostic encounters.** Diagnostic encounters are defined as those services necessary to fully evaluate defects, physical or behavioral health illnesses or conditions discovered by the screening. Approved diagnostic encounters may include the following:

(A) **Hearing and Hearing Aid evaluation.** Hearing evaluation includes pure tone air, bone and speech audiometry. Hearing evaluations ~~must adhere to guidelines found at OAC 317:30-5-676 and~~ must be provided by a state-licensed audiologist who:

(i) holds a ~~certificate of clinical competence~~Certificate of Clinical Competence from the American Speech ~~and~~-Language-Hearing Association (ASHA); or

(ii) has completed the equivalent educational requirements and work experience necessary for the certificate; or

(iii) has completed the academic program and is acquiring supervised work experience to qualify for the certificate.

(B) **Audiometry test.** Audiometric test (Immittance [Impedance] audiometry or tympanometry) includes bilateral assessment of middle ear status and reflex studies (when appropriate) provided by a state-licensed audiologist who:

(i) holds a ~~certificate of clinical competence~~Certificate of Clinical Competence from the ~~American Speech and Hearing Association~~ASHA; or

(ii) has completed the equivalent educational requirements and work experience necessary for the certificate; or

(iii) has completed the academic program and is acquiring supervised work experience to qualify for the certificate.

(C) **Ear impression (for earmold).** Ear impression (for earmold) includes taking impression of a member's ear and providing a finished earmold which is used with the member's hearing aid provided by a state-licensed

audiologist who:

(i) holds a ~~certificate of clinical competence~~Certificate of Clinical Competence from the ~~American Speech and Hearing Association~~ASHA; or

(ii) has completed the equivalent educational requirements and work experience necessary for the certificate; or

(iii) has completed the academic program and is acquiring supervised work experience to qualify for the certificate.

(D) **Vision Screening**. Vision screening in schools includes application of tests and examinations to identify visual defects or vision disorders. The vision screening may be performed by a Registered Nurse (RN) or Licensed Practical Nurse (LPN) under the supervision of an RN, or State Certified Vision Impairment Teacher. The service can be billed when a SoonerCare member has an individualized documented concern that warrants a screening. A vision examination must be provided by a state-licensed Doctor of Optometry (O.D.) or licensed physician specializing in ophthalmology (M.D. or D.O.). This vision examination, at a minimum, includes diagnosis and treatment for defects in vision.

(E) **Speech-Language evaluation.** Speech-Language evaluation is for the purpose of identification of children with speech or language disorders and the diagnosis and appraisal of specific speech and language services. Speech-Language evaluations ~~must adhere to guidelines found at OAC 317:30-5-676 and~~ must be provided by state-licensed speech-language pathologist who:

(i) holds a ~~certificate of clinical competence~~Certificate of Clinical Competence from the ~~American Speech and Hearing Association~~ASHA; or

(ii) has completed the equivalent educational requirements and work experience necessary for the certificate; or

(iii) has completed the academic program and is acquiring supervised work experience to qualify for the certificate.

(F) **Physical Therapy evaluation**. Physical Therapy evaluation includes evaluating the student's ability to move throughout the school and to participate in classroom activities and the identification of movement dysfunction and related functional problems and must be provided by a state-licensed physical therapist. Physical Therapy evaluations must adhere to guidelines found at OAC 317:30-5-291.

(G) **Occupational Therapy evaluation**. Occupational Therapy evaluation services include determining what therapeutic services, assistive technology, and environmental modifications a student requires for participation in the special education program and must be provided by a state-licensed occupational therapist. ~~Occupational Therapy evaluations must adhere to guidelines found at OAC 317:30-5-296.~~

(H) **Psychological Evaluation and Testing.** Psychological Evaluation and Testing are for the purpose of diagnosing and determining if emotional, behavioral, neurological, or developmental issues are affecting academic performance and for determining recommended treatment protocol. Evaluation/testing for the sole purpose of academic placement (e.g. diagnosis of learning disorders) is not a compensable service. Psychological Evaluation and Testing must be provided by state-licensed, ~~Board Certified, Psychologist or School Psychologist~~board-certified psychologist or school psychologist certified by Oklahoma State Department of Education ~~(SDE)~~(OSDE). Psychological evaluations and testing services must adhere to guidelines found at OAC 317:30-5-241.1 and 317:30-5-241.2.

(4) **Child guidance treatment encounter.** A child guidance treatment encounter may occur through the provision of individual, family, or group treatment services to children who are identified as having specific disorders or delays in development, emotional, or behavioral problems, or disorders of speech, language or hearing. These types of encounters are initiated following the completion of a diagnostic encounter and subsequent development of a treatment plan, or as a result of an IEP or IFSP and may include the following:

(A) **Hearing and Vision Services.** Hearing and vision services ~~must adhere to guidelines found at OAC 317:30-5-676 and~~ may include provision of habilitation activities, such as auditory training, aural and visual habilitation training, including Braille, and communication management, orientation and mobility, counseling for vision and hearing losses and disorders. Services must be provided by or under the direct guidance of one of the following individuals practicing within the scope of his or her practice under State law:

(i) state-licensed, Master's Degree Audiologist who:

(I) holds a ~~certificate of clinical competence~~Certificate of Clinical Competence from the ~~American Speech and Hearing Association~~ASHA; or

(II) has completed the equivalent educational requirements and work experience necessary for the certificate; or

(III) has completed the academic program and is acquiring supervised work experience to qualify for the certificate;

(ii) state-licensed, Master's Degree Speech-Language Pathologist who:

(I) holds a ~~certificate of clinical competence~~Certificate of Clinical Competence from the ~~American Speech and Hearing Association~~ASHA; or

(II) has completed the equivalent educational requirements and work experience necessary for the certificate; or

(III) has completed the academic program and is acquiring supervised work experience to qualify for the certificate;

(iii) state-certified deaf education teacher;

(iv) certified orientation and mobility specialists; and

(v) state-certified vision impairment teachers.

(B) **Speech-Language Therapy Services.** Speech-Language Therapy Services include provisions of speech and language services for the habilitation or prevention of communicative disorders. Speech-Language Therapy services ~~must adhere to guidelines found at OAC 317:30-5-676 and~~ must be provided by or under the direct guidance and supervision of a state-licensed Speech-Language Pathologist within the scope of his or her practice under State law who:

(i) holds a ~~certificate of clinical competence~~Certificate of Clinical Competence from the ~~American Speech and Hearing Association~~ASHA; or

(ii) has completed the equivalent educational requirements and work experience necessary for the certificate; or

(iii) has completed the academic program and is acquiring supervised work experience to qualify for the certificate; or

(C) **Physical Therapy Services.** Physical Therapy Services are provided for the purpose of preventing or alleviating movement dysfunction and related functional problems that adversely affects the child's education. Physical Therapy services must adhere to guidelines found at OAC 317:30-5-291 and must be provided by or under the direct guidance and supervision of a state-licensed physical therapist; services may also be provided by a Physical Therapy

Assistant who has been authorized by the Board of Examiners working under the supervision of a licensed Physical Therapist. The licensed Physical Therapist may not supervise more than three Physical Therapy Assistants.

(D) **Occupational Therapy Services**. Occupational therapy may include provision of services to improve, develop or restore impaired ability to function independently. Occupational Therapy services ~~must adhere to guidelines found at OAC 317:30-5-296 and~~ must be provided by or under the direct guidance and supervision of a state-licensed Occupational Therapist; services may also be provided by an Occupational Therapy Assistant who has been authorized by the Board of Examiners, working under the supervision of a licensed Occupational Therapist.

(E) **Nursing Services.** Nursing ~~Services~~services may include provision of services to protect the health status of children, correct health problems and assist in removing or modifying health related barriers and must be provided by a registered nurse or licensed practical nurse under supervision of a registered nurse. Services include medically necessary procedures rendered at the school site, such as catheterization, suctioning, tube feeding, and administration and monitoring of medication.

(F) **Psychotherapy Services.** Psychotherapy services are the provision of counseling for children and parents. All services must be for the direct benefit of the child. Psychotherapy services must be provided by a state licensed Social Worker, a ~~state Licensed~~state-licensed Professional Counselor, a ~~State licensed~~state-licensed Psychologist or School Psychologist certified by the ~~SDE~~(OSDE), a ~~State licensed~~state-licensed Marriage and Family Therapist or a ~~State licensed~~state-licensed Behavioral Practitioner, or under Board supervision to be licensed in one of the above stated areas. Psychotherapy services must adhere to guidelines found at OAC 317:30-5-241.1 and 317:30-5-241.2.

(G) **Assistive Technology.** Assistive technology are the provision of services that help to select a device and assist a student with disability(ies) to use an ~~Assistive~~assistive technology device including coordination with other therapies and training of child and caregiver. Services must be provided by a:

(i) state-licensed, Speech-Language Pathologist who:

(I) holds a ~~certificate of clinical competence~~Certificate of Clinical Competence from the ~~American Speech and Hearing Association~~ASHA; or

(II) has completed the equivalent educational requirements and work experience necessary for the certificate; or

(III) has completed the academic program and is acquiring supervised work experience to qualify for the certificate;

(ii) state-licensed Physical Therapist; or

(iii) state-licensed Occupational Therapist.

(H) **Personal Care.** Provision of personal care services allow students with disabilities to safely attend school; includes, but is not limited to assistance with toileting, oral feeding, positioning, hygiene, and riding school bus to handle medical or physical emergencies. Services must be provided by registered paraprofessionals/assistants that have completed training approved or provided by ~~SDE~~(OSDE), or Personal Care Assistants, including ~~Licensed Practical Nurses~~LPNs, who have completed on-the-job training specific to their duties. Personal Care services do not include behavioral monitoring. Paraprofessionals are not allowed to administer medication, nor are they allowed to assist with or provide therapy services to SoonerCare members. Tube feeding of any type may only be reimbursed if provided by a registered nurse or licensed practical nurse. Catheter insertion and Catheter/Ostomy care may only be reimbursed when done by a registered nurse or licensed practical nurse.

(I) **Therapeutic Behavioral Services**. Therapeutic behavioral services are interventions to modify the non-adaptive behavior necessary to improve the student's ability to function in the community as identified on the plan of care. Medical necessity must be identified and documented through assessment and annual evaluations/re-evaluations. Services encompass behavioral management, redirection, and assistance in acquiring, retaining, improving, and generalizing socialization, communication and adaptive skills. This service must be provided by a Behavioral Health School Aide (BHSA) who has a high school diploma or equivalent and has successfully completed the paraprofessional training approved by the State Department of Education and a training curriculum in behavioral interventions for ~~Pervasive Developmental Disorders~~pervasive developmental disorders as recognized by OHCA. BHSA must be supervised by a ~~bachelors~~bachelor's level individual with a special education certification. BHSA must have CPR and First Aid certification. Six additional hours of related continuing education are required per year.

(J) **Immunization.** Immunizations must be coordinated with the ~~Primary Care Physician~~PCP for children enrolled in SoonerCare. An administration fee, only, can be paid for immunizations provided by the schools.

(c) **Individuals eligible for Part B of Medicare.** EPSDT school health related services provided to Medicare eligible members are billed directly to the fiscal agent.