

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: November 16, 2017

The proposed policy is an Emergency Rule. The proposed policy is scheduled to be presented at the October 19, 2017 Tribal Consultation, the November 16, 2017 Medical Advisory Committee meeting, and to the OHCA Board of Directors on December 14, 2017.

Reference: APA WF # 17-18

SUMMARY:

Therapeutic Leave Days Revisions - The proposed revisions eliminate therapeutic leave days for long-term care facilities with the exception of Intermediate Care Facilities serving Individuals with Intellectual Disabilities.

LEGAL AUTHORITY:

The Oklahoma Health Care Authority Act, Section 5007 (F)(1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board

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 # 17-18

A. Brief description of the purpose of the rule:

The proposed revisions eliminate therapeutic leave days for long-term care facilities, with the exception of Intermediate Care Facilities serving Individuals with Intellectual Disabilities, in an effort to meet the balanced budget

requirements. Without the recommended revisions, the OHCA is at risk of exhausting its State appropriated dollars required to maintain the SoonerCare program.

- 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:

Current SoonerCare long-term care facilities that receive reimbursement for therapeutic leave days will be affected by the proposed rule. There have been no cost impacts received by the agency from any private or public entities.

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

No classes of persons will benefit from this; however, the agency will benefit in a cost savings by no longer reimbursing for therapeutic leave days.

- 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:

There is a potential economic impact on long-term care facilities that receive reimbursement for therapeutic leave days. There are no fee changes associated with the proposed rule revisions.

- 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 OHCA anticipates that the proposed changes for the removal therapeutic leave days for long-term care facilities, with the exception of Intermediate Care Facilities serving Individuals with Intellectual Disabilities, would result in approximately \$24,541 State share savings for SFY2018, which would enable OHCA to file a balanced 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:

The proposed rule will not have an economic impact on any political subdivision or require their cooperation in implementing or enforcing the rule.

- 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:

It has been determined that there may be potential adverse effects on small business in Oklahoma. Eliminating therapeutic leave days will have a direct effect on long-term care facilities that were receiving reimbursement for therapeutic leave days because these revisions would result in a loss of revenue for days a member is not considered to be inpatient of the facility.

- 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:

Throughout the year, OHCA staff gathers relevant information through stakeholder involvement and public forums in order to communicate the planned actions concerning rulemaking, as well as other issues. While it is difficult to balance the needs of SoonerCare members with those of the various providers, we propose rules with each of these issues and interests considered.

- 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 OHCA anticipates that eliminating therapeutic leave days for long-term care facilities will allow us to continue the SoonerCare program without drastically reducing the provider reimbursement rates greater than nine percent (9%) or eliminating other optional services such as the pharmacy

benefit, which will have a detrimental impact on access for our SoonerCare members.

- J. A determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented:

If the rule is not implemented, the OHCA would have to rely on even more significant provider reimbursement rate reductions for all SoonerCare services in order to meet its constitutional requirement of filing a balanced budget. Reducing rates to the extent necessary to fulfill this obligation would have a detrimental effect on access for all SoonerCare members, as we would anticipate a reduction in our contracted provider network.

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

The rule impact statement was prepared October 16, 2017.

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

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 9. LONG TERM CARE FACILITIES

317:30-5-126. Therapeutic leave and Hospital leave

Therapeutic leave is any planned leave other than hospitalization that is for the benefit of the patient. Hospital leave is planned or unplanned leave when the patient is admitted to a licensed hospital. Therapeutic leave must be clearly documented in the patient's plan of care before payment for a reserved bed can be made.

~~(1) Effective July 1, 1994, the nursing facility may receive payment for a maximum of seven (7) days of therapeutic leave per calendar year for each recipient to reserve the bed.~~

~~(2)(1) No payment shall be made to a nursing long-term care facility for hospital leave. therapeutic leave with the exception of an Intermediate Care Facility serving Individuals with Intellectual Disabilities (ICF/IID). In addition, no payment shall be made to a long-term care facility for hospital leave.~~

~~(3)(2) The Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) ICF/IID may receive payment for a maximum of 60 days of therapeutic leave per~~

calendar year for each ~~recipient~~member to reserve a bed. No more than 14 consecutive days of therapeutic leave may be claimed per absence. ~~Recipients~~Members approved for ICF/IID on or after July 1 of the year will only be eligible for 30 days of therapeutic leave during the remainder of that year. No payment shall be made for hospital leave.

~~(4)~~(3) Midnight is the time used to determine whether a patient is present or absent from the facility. The day of discharge for therapeutic leave is counted as the first day of leave, but the day of return from such leave is not counted.

~~(5)~~(4) Therapeutic leave balances are recorded on the Medicaid Management Information System ~~(MMIS)~~. When a patient moves to another facility, it is the responsibility of the transferring facility to forward the patient's leave records to the receiving facility.