

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: January 16, 2018

The proposed policy is a Permanent Rule. The proposed policy was presented at the November 7, 2017 Tribal Consultation and is scheduled to be presented to the Medical Advisory Committee on January 18, 2018 and the OHCA Board of Directors on February 8, 2018.

Reference: APA WF 17-20

SUMMARY:

Grandfathered CHIP children – The proposed revisions amend Qualifying Categorical Relationship policy by removing an eligibility group that no longer exists.

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: Harvey Reynolds
Federal and State Authorities

SUBJECT: Rule Impact Statement
APA WF # 17-20

A. Brief description of the purpose of the rule:

The proposed revisions amend Qualifying Categorical Relationship policy by removing the subsection "Grandfathered CHIP children". The current rule identifies that this eligibility group terminated December 31, 2015, necessitating

the removal of this subsection from policy to eliminate any confusion.

- 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No classes of person will benefit from this rule change as it is removing policy that is no longer applicable.

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

Agency staff has determined that the proposed rule is 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 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:

The agency does not anticipate that the proposed rule 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 should not have any effect on the public health, safety or environment. The proposed rule is not designed to reduce significant risks to the public health, safety or environment.

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

The agency does not anticipate any detrimental effect on the public health, safety or environment if the proposed rule is not implemented.

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

Prepared date: July 21, 2017

RULE TEXT:

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

SUBCHAPTER 5. ELIGIBILITY AND COUNTABLE INCOME

PART 1. DETERMINATION OF QUALIFYING CATEGORICAL RELATIONSHIP

317:35-5-2. Categorically related programs

(a) In order to be eligible for SoonerCare, an individual must first meet the description of a member eligibility group. For individuals related to the aged, blind, or disabled groups, categorical relationship is established using the same definitions of age, disability and blindness as used by the Social Security Administration (SSA) in determining eligibility for Supplemental Security Income (SSI) or SSA benefits. If the individual is a SSA/SSI recipient in current payment status (including presumptive eligibility), a TANF recipient, an adoption assistance or kinship guardianship assistance recipient, or is under age 19, categorical relationship is automatically established. Categorical relationship to the pregnancy group is established when the determination is made by medical evidence that the individual is or has been pregnant. Effective January 1, 2014, verification of pregnancy is only required if the individual's declaration that she is pregnant is not reasonably compatible with other information available to the agency. Pregnancy-related services include all medical services provided within the scope of the program during the prenatal, delivery and postpartum periods for women in this pregnancy group; see Subchapter 22 of this Chapter for services for unborn children covered under Title XXI. For an individual age 19 or over to be related to the parent and caretaker relative group, the individual must have a minor dependent child. For an individual to be related to the former foster care children group, the individual must not be eligible for the Title XIX pregnancy or parent or caretaker relative groups, must be aged 19-26, and must have been receiving SoonerCare as a foster care child when he/she aged out of foster care in Oklahoma. There is no income or resource test for the former foster care children group. Categorical relationship to Refugee services is established in accordance with OAC 317:35-5-25. Categorical relationship for the Breast and Cervical Cancer Treatment program is established in accordance with OAC 317:35-21. Categorical relationship for the SoonerPlan Family Planning Program is established in accordance with OAC 317:35-5-8.

Categorical relationship for pregnancy related benefits covered under Title XXI is established in accordance with OAC 317:35-22. Benefits for pregnancies covered under Title XXI medical services are provided within the scope of the program during the prenatal, delivery and postpartum care when included in the global delivery payment. To be eligible for SoonerCare benefits, an individual must be related to one of the following eligibility groups:

- (1) Aged
 - (2) Disabled
 - (3) Blind
 - (4) Pregnancy
 - (5) Children, also including newborns deemed eligible
 - ~~(A) Newborns deemed eligible, and~~
 - ~~(B) Grandfathered CHIP children~~
 - (6) Parents and Caretaker Relatives
 - (7) Refugee
 - (8) Breast and Cervical Cancer Treatment program
 - (9) SoonerPlan Family Planning Program
 - (10) Benefits for pregnancies covered under Title XXI
 - (11) Former foster care children.
- (b) The Authority may provide SoonerCare to reasonable categories of individuals under age 21.
- (1) Individuals eligible for SoonerCare benefits include individuals between the ages of 19 and 21:
 - (A) for whom a public agency is assuming full or partial financial responsibility who are in custody as reported by the Oklahoma Department of Human Services (OKDHS) and in foster homes, private institutions or public facilities; or
 - (B) in adoptions subsidized in full or in part by a public agency; or
 - (C) individuals under age 21 receiving active treatment as inpatients in public psychiatric facilities or programs if inpatient psychiatric services for individuals under age 21 are provided under the State Plan and the individuals are supported in full or in part by a public agency; or
 - (2) Individuals eligible for SoonerCare benefits include individuals between the ages of 18 and 21 if they are in custody as reported by OKDHS on their 18th birthday and living in an out of home placement.

317:35-5-7. Determining categorical relationship to the children and parent and caretaker relative groups

(a) **Categorical relationship.** All individuals under age 19 are automatically related to the children's group and further determination is not required. Adults age 19 or older are

related to the parent and caretaker relative group when there is a minor dependent child(ren) in the home and the individual is the parent, or is the caretaker relative other than the parent who meets the proper degree of relationship. A minor dependent child is any child who meets the AFDC eligibility requirements of age and relationship.

~~(b) **Grandfathered CHIP children.** As provided in OAC 317:35-6-1, the MAGI methodology is not applied to determine eligibility for children who are enrolled in SoonerCare on December 31, 2013 until March 31, 2014 or the child's next regularly scheduled renewal, whichever is later.~~

~~(1) The MAGI methodology eliminates the following income disregards, which are subtracted from gross income under the TANF methodology prior to October 1, 2013:~~

~~(A) The \$240 work related expense deduction from earned income per employed household member;~~

~~(B) The disregard of the first \$50 of child support received by a household; and~~

~~(C) The deduction for child support expenses paid by an employed parent or caretaker who needs child care in order to work, in the amount of the actual expense paid up to a maximum of \$200 per month for children under 2 years of age and up to a maximum of \$175 per month for children 2 years of age or older.~~

~~(2) If the elimination of the disregards listed in (1) when the MAGI methodology is applied to a child who was enrolled in SoonerCare on December 31, 2013 makes the child financially ineligible, the child is related to the Grandfathered CHIP children group.~~

~~(3) The following children are not eligible for the Grandfathered CHIP Children group:~~

~~(A) Children who are eligible for SoonerCare through another eligibility group;~~

~~(B) Children who have other creditable health insurance coverage;~~

~~(C) Children who are inmates of public institutions or are patients in institutions for mental disease; or~~

~~(D) Children who are eligible for coverage under a health plan offered to employees of the State of Oklahoma.~~

~~(4) If a child's eligibility in this group is redetermined during his/her certification period and the child is financially ineligible without regard to elimination of the disregards in (1), the child's benefits are closed using normal procedures.~~

~~(5) Eligibility for children in this group expires on the date of the child's next regularly scheduled recertification after the recertification for which the MAGI methodology was~~

~~first used. This eligibility group terminates for all children December 31, 2015.~~

~~(c)~~**(b) Requirement for referral to the Oklahoma Child Support Services Division (OCSS).** As a condition of eligibility, when both the parent or caretaker and minor child(ren) are receiving SoonerCare and a parent is absent from the home, the parent or caretaker relative must agree to cooperate with OCSS. However, federal regulations provide for a waiver of this requirement when cooperation with OCSS is not in the best interest of the child. OCSS is responsible for making the good cause determination. If the parent or caretaker relative is claiming good cause, he/she cannot be certified for SoonerCare in the parent and caretaker relative group unless OCSS has determined good cause exists. There is no requirement of cooperation with OCSS for child(ren) or pregnant women to receive SoonerCare.

PART 7. APPLICATION AND ELIGIBILITY DETERMINATION PROCEDURES

317:35-5-63. Agency responsible for determination of eligibility

(a) Determination of eligibility by OHCA. OHCA is responsible for determining eligibility for the following eligibility groups:

- (1) children
- (2) newborns deemed eligible
- ~~(3) grandfathered CHIP children~~
- ~~(4)~~**(3)** pregnant women
- ~~(5)~~**(4)** pregnancy-related services under Title XXI
- ~~(6)~~**(5)** parents and caretaker relatives
- ~~(7)~~**(6)** former foster care children
- ~~(8)~~**(7)** Oklahoma Cares Breast and Cervical Cancer program
- ~~(9)~~**(8)** SoonerPlan Family Planning program.

(b) Determination of eligibility by OKDHS. OKDHS is responsible for determining eligibility for the following eligibility groups:

- (1) TANF recipients
- (2) recipients of adoption assistance or kinship guardianship assistance
- (3) state custody
- (4) Refugee Medical Assistance
- (5) aged
- (6) blind
- (7) disabled
- (8) Tuberculosis
- (9) QMBP
- (10) QDWI
- (11) SLMB
- (12) QI-1

- (13) Long term care services
- (14) alien emergency services.
- (c) **Determination of eligibility for programs offered through the Health Insurance Exchange.** Effective October 1, 2013, OHCA assesses applicants who are found to be ineligible for SoonerCare for potential eligibility for affordable insurance programs offered through the Health Insurance Exchange. OHCA does not determine eligibility or ineligibility for those programs. OHCA facilitates the determination for those affordable insurance programs by forwarding applicants' electronic applications to the Health Insurance Exchange.

SUBCHAPTER 6. SOONERCARE FOR PREGNANT WOMEN AND FAMILIES WITH CHILDREN

PART 1. GENERAL

317:35-6-1. Scope and applicability

(a) The rules in this Subchapter apply when determining financial eligibility for SoonerCare Health Benefits for groups whose eligibility is determined using Modified Adjusted Gross Income (MAGI). These rules apply to the following groups:

- (1) Children,
 - ~~(2) Grandfathered CHIP children,~~
 - ~~(3)~~(2) Pregnant women,
 - ~~(4)~~(3) Pregnancy-related services under Title XXI,
 - ~~(5)~~(4) Parents and caretaker relatives,
 - ~~(6)~~(5) SoonerPlan Family Planning program,
 - ~~(7)~~(6) Independent foster care adolescents,
 - ~~(8)~~(7) Inpatients in public psychiatric facilities under 21, and
 - ~~(9)~~(8) Tuberculosis.
- (b) See 42 CFR 435.603 to determine whether MAGI applies to a group not specifically listed in this Section.
- (c) MAGI rules take effect on October 1, 2013.