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 September 5, 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# 17-23

SUMMARY:
Breast and Cervical Cancer (BCC) Benefit Update – The proposed Breast and Cervical Cancer (BCC) Benefit policy is amended to comply with federal regulation which addresses optional eligibility for individuals needing treatment for breast and cervical cancer. In order to align revisions with federal regulation requirements the references to "women" will be replaced with the terms that are inclusive of both males and females for eligibility purposes.

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; 42 CFR 435.213

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA
OKLAHOMA HEALTH CARE AUTHORITY

TO: Tywanda Cox
Federal and State Policy

FROM: Carmen Johnson
Federal and State Authorities

SUBJECT: Rule Impact Statement
APA WF # 17-23

A. Brief description of the purpose of the rule:

Proposed revisions for Breast and Cervical Cancer (BCC) Benefits is amended to comply with federal regulation, which addresses optional eligibility for individuals needing treatment for breast and cervical cancer. In order to align revisions with federal regulation requirements the references to "women" will be replaced with the terms that are inclusive of both males and females for eligibility purposes. Revisions also include removal of old references to the Oklahoma Department of Human Services (OKDHS) and outdated language regarding creditable coverage in order to reflect current business practices. In addition, the proposed revisions replace the term "OKDHS worker" with the term "eligibility coordinator".

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:

The classes of persons affected by the proposed rule are "Men" that may be eligible for the Breast and Cervical Cancer treatment program.

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

"Men" found to be in need of BCC services may benefit from the rule, as the federal regulation addresses optional eligibility for all individuals, not just women.

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 on any classes of persons or political subdivisions.

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:

Agency staff has determined that the impact to expand the scope of Breast and Cervical Cancer benefits will result in an approximately 1.7 percent increase in enrollment equaling an estimated total 12 month cost of $205,898 total dollars, $85,304 state dollars using FFY 2018 FMAP.

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 subdivisions 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 proposed rule will not have an adverse effect on small businesses as provided by the Oklahoma Small Business Regulatory Flexibility Act.

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 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 expand Breast and Cervical Care treatment services

to now both men and women.

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:

Prepared: November 6, 2017

RULE TEXT

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

SUBCHAPTER 21. OKLAHOMA CARES BREAST AND CERVICAL CANCER TREATMENT PROGRAM

317:35-21-1. Oklahoma Cares Breast and Cervical Cancer Treatment program

(a) The Breast and Cervical Cancer Prevention and Treatment Act of 2000 ~~(BCCPTA)~~ allows states to provide Medicaid to uninsured ~~women~~individuals under age 65 who are in need of treatment for breast and/or cervical cancer. A medical eligibility evaluation is performed through the Centers for Disease Control and Prevention's (CDC) National Breast and Cervical Cancer Early Detection Program ~~(NBCCEDP)~~. If the evaluation determines the ~~woman~~individual is in need of treatment for breast and/or cervical cancer, including pre-cancerous conditions and early stage, recurrent or metastatic cancer the case is forwarded to OHCA for final medical eligibility determination.

(b) To receive Breast and Cervical Cancer (BCC) Treatment services, the ~~woman~~individual must meet all of the following conditions.

(1) The ~~woman~~individual must have been screened for BCC under the CDC Breast and Cervical Cancer Early Detection Program (see OAC 317:35-21-3) established under Title XV of the Public Health Service ~~(PHS)~~ Act, and upon screening examination found to be in need of treatment, including an abnormal finding that is potentially indicative of a cancerous or precancerous condition or found to have an early

stage, recurrent or metastatic cancer of the breast or cervix. (see OAC 317:35-21-5).

(2) The ~~woman~~individual must:

(A) not have creditable insurance coverage that covers the treatment of breast or cervical cancer (see OAC 317:35-21-4),

(B) not be eligible for any other categorically needy SoonerCare eligibility group,

(C) be under 65 years of age,

(D) be a US citizen or qualified alien (see OAC 317:35-5-25 for citizenship/alien status and identity verification requirements),

(E) be a resident of Oklahoma,

(F) declare ~~her~~his/her Social Security number,

(G) assign ~~her~~his/her rights to Third Party Liability if ~~she~~he/she has insurance that is not creditable, and

(H) declare ~~her~~his/her household income for the purpose of determining eligibility for services under the SoonerCare program.

317:35-21-3. ~~CDC~~Centers for Disease Control and Prevention (CDC) screening

(a) To be eligible for the Oklahoma Cares Breast and Cervical Cancer (BCC) Treatment program, ~~a woman~~an individual must be screened under the CDC Breast and Cervical Cancer Early Detection Program. ~~A woman~~An individual is considered screened under the CDC program if ~~her~~his/her screening was provided all or in part by CDC Title XV funds, or the service was rendered by a provider funded at least in part by CDC Title XV funds, and/or if ~~she~~he/she is screened by another provider whose screening activities are pursuant to CDC Title XV of the Public Health Service ~~(PHS)~~ Act.

(b) Prior to certification of the BCC application an OHCA Care Management nurse must review the application and clinical data to verify the BCC applicant meets medical eligibility criteria for the BCC program.

(c) Upon verification by OHCA Care Management, the application is forwarded to the ~~OKDHS worker~~eligibility coordinator to verify ~~that~~ the BCC applicant was screened by a CDC provider and meets criteria for the program as outlined in OAC 317:35-21-1.

317:35-21-4. Creditable coverage

(a) Creditable coverage when used in this subchapter means any insurance that pays for medical bills incurred for the diagnosis and/or treatment of breast or cervical cancer. ~~A woman~~An individual having any one of the following types of coverage is considered to have creditable coverage and would normally be

ineligible for the Breast and Cervical Cancer Treatment(BCC) program:

(1) Coverage under a group health plan;

(2) Health insurance coverage, i.e., benefits consisting of medical care under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer;

(3) Medicare Part A and/or B;

(4) SoonerCare;

(5) Armed Forces insurance; and/or

(6) A state health risk pool.

(b) If ~~a woman~~an individual has limited coverage, such as limited drug coverage or limits on the number of outpatient visits, or high deductibles, ~~she~~he/she is still considered to have creditable coverage. However, if ~~she~~he/she has a policy with limited scope coverage such as those that only cover dental, vision, or long term care, or a policy that covers only a specific disease or illness, ~~she~~he/she is not considered to have creditable coverage, unless the policy provides coverage for breast or cervical cancer.

(c) There may be some circumstances when ~~a woman~~an individual has creditable coverage but that coverage does not actually cover treatment of breast or cervical cancer. In instances such as pre-existing condition exclusions, or when the annual or lifetime limit on benefits has been exhausted, ~~a woman~~an individual is not considered to have creditable coverage for this treatment. In these types of circumstances the ~~woman~~individual may be eligible for ~~Breast and Cervical Cancer~~BCC services if ~~she~~he/she meets all other eligibility criteria.

(d) There is no requirement that ~~a woman~~an individual be uninsured for any specific length of time before ~~she~~he/she is found eligible for SoonerCare under this program. If ~~a woman~~an individual loses creditable coverage for any reason and satisfies all other eligibility requirements for the BCC program it is possible for ~~her~~him/her to become immediately eligible for coverage in this program.

(e) ~~The CDC screener evaluates whether or not the woman has creditable coverage. All health insurance, creditable or not, is listed on the OKDHS computer system in order for OHCA Third Party Liability Unit to verify insurance coverage. Questionable insurance coverage is noted in the application by the CDC screener. Applications with questionable insurance coverage are forwarded to the OHCA Third Party Liability Unit for further verification.~~ The existence of creditable coverage will be verified by the OHCA eligibility coordinator.

317:35-21-5. In need of treatment

In need of treatment, when used in this subchapter, means an abnormal screen determined as a result of a screening for ~~BCC~~Breast and Cervical Cancer (BCC) under the ~~CDC~~Centers for Disease Control and Prevention BCC Early Detection Program established under Title XV of the Public Health Service Act, indicating pre-cancerous conditions and early stage, recurrent or metastatic cancer. Services include diagnostic services for an abnormal finding that may be necessary to determine the extent and proper course of treatment, as well as definitive cancer treatment itself. ~~Women~~Individuals who are determined to require only routine monitoring services for precancerous breast or cervical condition (e.g., breast examinations, mammograms, pelvic exams and pap smears) are not considered to be "in need of treatment".

317:35-21-6. Age requirements

To be eligible for the Oklahoma Cares Breast and Cervical Cancer Treatment program, ~~a woman~~an individual must be under 65 years of age. If ~~a woman~~an individual turns 65 during the certification period, eligibility ends effective the last day of ~~her~~his/her birth month. The ~~OKDHS worker~~eligibility coordinator assists the ~~woman~~individual in determining if eligibility may continue in another SoonerCare category.

317:35-21-8. Social security number

Federal regulations require ~~a woman~~an individual furnish ~~her~~his/her Social Security number at the time of application for the Oklahoma Cares Breast and Cervical Cancer Treatment program.

317:35-21-9. Income

(a) There is no income limit imposed by ~~state or federal law~~State or Federal law for the Breast and Cervical Cancer Treatment program. However, the ~~CDC~~Centers for Disease Control and Prevention Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service ~~(PHS)~~ Act does allow CDC program grantees to set maximum income limits.

(b) Income limits are established for ~~women~~individuals receiving Breast and Cervical Cancer Treatment program services through SoonerCare. The ~~woman~~individual is required to declare ~~her~~his/her household income so that the ~~OKDHS worker~~eligibility coordinator may determine if ~~she~~he/she qualifies for the program or is otherwise SoonerCare eligible.

317:35-21-11. Certification for ~~BCC~~Breast and Cervical Cancer

(BCC)

(a) In order for ~~a woman~~an individual to receive BCC treatment services ~~she~~he/she must first be screened for BCC ~~cancer~~ under the ~~CDC~~Centers for Disease Control and Prevention Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act and found to be in need of treatment. Once determined to be in need of treatment the CDC screener determines that the ~~woman:~~individual:

(1) does not have creditable health insurance coverage,
(2) is under age 65,
(3) is a US citizen or qualified alien (see OAC 317:35-5-25),
(4) is a ~~self declared~~self-declared Oklahoma resident,
(5) has provided ~~her~~his/her social security number,
(6) is willing to assign medical rights to ~~TPL,~~Third Party Liability, and
(7) has declared all household income.

(b) If all of the conditions in subchapter (a) are met, the CDC screener assists the ~~woman~~individual in completing the ~~BCC~~OHCA BCC-1 application ~~(OHCA BCC-1).~~(BCC-1) The completed BCC-1 along with the documentation of clinical findings, (i.e., history and physical findings, pathology reports, radiology reports and other pertinent data) is forwarded to the OHCA Care Management Unit.

(c) The OHCA Care Management nurse verifies that the member meets the medical eligibility criteria described in OAC 317:35-21-1 (a) and meets the "in need of treatment" criteria set forth in OAC 317:35-21-1(b)1 and 317:35-21-5. If this criteria is not met or the appropriate clinical documentation is not included, the application will be denied and the OHCA will send a notice of ineligibility to the applicant. Abnormal findings do not include ~~women~~individuals who are at high risk or who could appropriately receive risk reduction therapy, but have no evidence of cancer or a precancerous condition. If it is determined that the ~~woman~~individual does not have cancer or a precancerous condition, a future application for the BCC program must be based on a different finding of abnormality than the previous application data.

(d) If all medical eligibility criteria are met the application will be forwarded to ~~OKDHS~~the eligibility coordinator for further determination of eligibility.

(e) The ~~OKDHS worker~~eligibility coordinator verifies that the screener is a CDC screener. The ~~worker~~eligibility coordinator also establishes whether or not the ~~woman~~individual is otherwise eligible for SoonerCare. If the ~~woman~~individual is not otherwise eligible for SoonerCare, ~~she~~he/she is certified for the BCC program. If the ~~woman~~individual is eligible under another SoonerCare category, the application is certified in the

other Medicaid category.
(f) If ~~a woman~~an individual does not cooperate in determining ~~her~~his/her eligibility for other SoonerCare programs, ~~her~~his/her BCC application is denied and the appropriate notice is computer generated. For example, ~~a woman~~an individual otherwise eligible for SoonerCare, related to the low income families with children category, refuses to cooperate with child support enforcement without good cause would not be eligible for the BCC program.
(g) If ~~a woman~~an individual in treatment for breast or cervical cancer contacts the ~~OKDHS office~~OHCA and has not been through the CDC screening process, ~~she~~he/she is referred to the Oklahoma Cares toll free number (866-550-5585) for assistance.
(h) An individual determined eligible for the Oklahoma Cares Breast and Cervical Cancer Treatment program may be certified the first day of the month of application. If the individual had a medical service prior to the application date, certification will occur the first day of the first, second or third month prior to the month of application, in accordance with the date of the medical service, provided the date of certification is not prior to the CDC Screen.

317:35-21-12. Changes after certification/continued need for treatment

(a) ~~A woman~~An individual found to be in need of treatment as the result of an abnormal ~~BCC screen~~ Breast and Cervical Cancer screening has 60 days from the date of the application to complete the initial appointment for a diagnostic procedure and an additional 60 days to complete any additional diagnostic testing required or to initiate compensable treatment for a cancerous or pre-cancerous condition. The exception to the time limit is evidence of a lack of appointment availability. Upon completion of the diagnostic testing, OHCA is provided a medical report of the findings.

(1) If the ~~woman~~individual is found not to have breast or cervical cancer including pre-cancerous conditions and early stage, recurrent or metastatic cancer for which ~~she~~he/she is in need of treatment or fails to have diagnostic testing or begin treatment within the time frames described in OAC 317:35-21-12(a), the case is closed by ~~OKDHS~~OHCA and appropriate notification is computer generated.

(2) If a medical report necessary to determine continued treatment is not received from a provider within ten working days after a request is made by OHCA, the report is considered negative and the case is closed by ~~OKDHS~~OHCA and appropriate notification is computer generated.

(b) If the ~~woman~~individual in need of treatment refuses SoonerCare compensable treatment or diagnostic services and does

not plan to pursue the care in the time frames described in OAC 317:35-21-12(a), the case is closed by ~~OKDHS~~OHCA and appropriate notification is computer generated.
(c) In the event ~~a woman~~an individual is unable to initiate or complete diagnostic services due to a catastrophic illness or injury occurring after certification, SoonerCare will remain open with the approval of a SoonerCare Medical Director or his/her designee.
(d) If it is determined at any time during the certification period by either the ~~woman's~~individual's treating physician or by a SoonerCare Medical Director or his or her designee that the ~~woman~~individual is no longer in need of treatment for breast or cervical cancer or a precancerous condition, ~~OHCA will notify OKDHS and the OKDHS worker~~the eligibility coordinator closes the case and appropriate notification is computer generated.
(e) If it is determined at any time during the certification period that the ~~woman~~individual has creditable health insurance coverage, the ~~OKDHS worker~~eligibility coordinator closes the case and appropriate notification is computer generated.
(f) If the ~~OKDHS worker~~eligibility coordinator later determines that the ~~woman~~individual is otherwise eligible for SoonerCare, the worker takes necessary actions to certify ~~her~~his/her for the appropriate category of SoonerCare coverage.

317:35-21-13. Redetermination

A periodic redetermination of eligibility is required every 12 months. The computer generated redetermination form is mailed to the ~~woman~~individual during ~~her~~his/her 11th month of eligibility. The ~~woman~~individual is responsible for having ~~her~~his/her SoonerCare provider complete the statement certifying that ~~she~~he/she continues to be in need of treatment and for providing any other information necessary to redetermine eligibility.

(1) If the completed forms are not returned, the case is closed and appropriate notice is computer generated.

(2) When the completed forms are returned timely and the ~~woman~~individual remains eligible for the BCC program, the computer is updated to show ~~her~~the individual's continued eligibility.

317:35-21-14. Appeals and reconsiderations

(a) Applicants who wish to appeal a denial decision made by the OHCA ~~or OKDHS~~ may submit form LD-1 to the OHCA within 20 days of receipt of the decision notification. If the form is not received at the OHCA within the required time frame, the appeal will not be heard. More information on the appeals process is provided at OAC 317:2-1-2(a).

(b) Reconsiderations to the OHCA may be requested by a ~~CDC~~Centers for Disease Control and Prevention screener if missing documentation, that could potentially result in a determination of eligibility, has been obtained. The missing documentation must be presented within 30 days of the date of the notice of denial.