



STATE OF OKLAHOMA
OKLAHOMA HEALTH CARE AUTHORITY

I/T/U Public Notice 2019-06

June 19, 2019

RE: Oklahoma Health Care Authority (OHCA) Proposed Rule, State Plan, and Waiver Amendments

Dear Tribal Representative:

The purpose of this letter is to give you notice of proposed changes that will be reviewed at the tribal consultation meeting held on July 2, 2019 at 11:00 a.m. in the Oklahoma Health Care Authority (OHCA) Charles Ed McFall Board Room located at 4345 N Lincoln, Oklahoma City, OK. The OHCA invites you to attend this meeting, and we welcome any comments regarding the proposed changes. The agency is committed to active communication with tribal governments during the decision-making and priority-setting process and therefore keeps you apprised of all proposed changes.

Enclosed are summaries of the current proposed rules, state plans, and waiver amendments for your review. The summaries describe the purpose of each change.

Please note that these are only proposed changes and have not yet taken effect. Before implementation, new changes must obtain budget authorization, the OHCA Board approval, and when applicable, federal approval and the governor's approval.

Additionally, the OHCA posts all proposed changes on the agency's [Policy Change Blog](#) and the [Native American Consultation Page](#). This public website is designed to give all constituents and stakeholders an opportunity to review and make comments regarding upcoming policy changes. To ensure that you stay informed of proposed policy changes, you may sign up for web alerts to be automatically notified when any new proposed policy changes are posted for comment.

The OHCA values consultation with tribal governments and will provide your representatives a reasonable amount of time to respond to this notification. If you have any questions or comments about the proposed policy changes, please use the online comment system found on the [Policy Change Blog](#) and/or the [Native American Consultation Page](#).

Sincerely,

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Dana Miller
Director, Tribal Government Relations

Proposed Rule, State Plan, and Waiver Amendments

Board Organization Policy Revisions — The proposed revisions will comply with Senate Bill 456, which was signed into law on March 13th, 2019 and directed the reorganization of the OHCA Board. The seven-member board was replaced with a nine-member board. Further revisions will clarify that the terms of office of the chair and vice-chair shall be one year beginning January 1st of each year. Elections will be held at the last regular meeting before January 1st. Other revisions will be aimed at updating outdated terminology.

Opioid Standards and Drug Utilization Review (DUR) Program — The proposed revisions will comply with the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act that was signed into law on October 24th, 2018. Title I, Section 1004 of the SUPPORT Act requires Medicaid agencies to build on current state Medicaid drug utilization review activities to help combat the opioid crisis. State Medicaid agencies are required to:

- Have safety edits, as specified by the states, for subsequent opioid fills and maximum daily morphine equivalent that exceed state-defined limitations.
- Have an automated process that monitors when an individual is concurrently prescribed opioids and benzodiazepines or antipsychotics;
- Monitor antipsychotic prescribing for children;
- Have a process that identifies potential fraud or abuse by enrolled individuals and pharmacies; and
- Submit a report to the Secretary annually on state DUR activities.

Further CMS guidance will outline states' options to address the requirements related to drug utilization review activities of opioids and children antipsychotics.

Incarcerated Individuals' Eligibility and SUPPORT Act Compliance — The proposed changes will revise eligibility policy to comply with the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act (H.R. 6), Sections 1001 and 1002. Section 1001 prohibits state Medicaid programs from terminating eligibility for an individual under age 21 and/or former foster care youth up to age 26 while incarcerated. The agency will be required to re-determine eligibility prior to the individual's release from incarceration. This provision of the SUPPORT Act must be enforced by October 24th, 2019.

Pharmacy Supplemental Rebate Agreement — The proposed amendment to the State Plan will revise language to reflect the new effective date for the updated pharmacy supplemental rebate agreement. The agreements will be effective on January 1st, 2020 and after.

Medically Fragile Waiver Revisions — The proposed revisions to the Medically Fragile Waiver program will include requesting an increase in slot participation over the next four waiver years. The waiver will increase State Fiscal Year (SFY) 2020 from 105 slots to 118 slots, SFY2021 from 115 slots to 129 slots, SFY2022 from 126 slots to 142 slots and SFY2023 from 138 slots to 155 slots. In Fiscal year 2019, the Medically Fragile Waiver program met the awarded number of slots. Due to the influx of enrollment in the Medically Fragile Waiver, it has been determined that an increase to the awarded slots approved by the Centers of Medicare & Medicaid services is necessary to accommodate additional participation.

Disproportionate Share Hospital — The proposed revisions are pursuant to Senate Bill 1044 to revise the Disproportionate Share Hospital (DSH) program methodology in order to distribute dollars to

qualifying small rural hospitals. Additional revisions will include updating outdated references and definitions.

High Risk Obstetrical (HROB) Services — The proposed revisions will add "family practice physician - obstetrics" (FP/OB) as a new provider type under the enhanced services for medically high risk pregnancies policy. Further revisions will update policy in order to reflect current business practices.

Long-Term Care Facilities Revisions — The proposed revisions will bring the Oklahoma Health Care Authority (OHCA) into compliance with Senate Bill 280. Revisions will increase rates and recalculate the Quality of Care fee for regular nursing facilities and nursing facilities serving residents with Acquired Immune Deficiency Syndrome. Revisions will establish new quality measures and criteria as well as recalculate the incentive reimbursement rate plan for nursing facilities participating in the Focus on Excellence (FOE) program. In addition, revisions will direct certain redistribution of funds, update staffing ratios, establish an advisory group, implement an administrative appeals process for disputed nursing facility cost reporting adjustments, streamline the audit process, and increase the personal needs allowance for residents of nursing homes and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IIDs).

Provider Rate Increases — Revisions are needed to increase the current reimbursement rates for all SoonerCare-contracted provider types by five percent (5%), with the following exemptions: services financed through appropriations to other state agencies; Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS); non-emergency transportation capitated payments; services provided to Insure Oklahoma (IO) members; payments for drug ingredients/physician supplied drugs; Indian Health Services/Tribal/Urban Clinics (I/T/Us); Federally Qualified Health Centers (FQHCs); and Rural Health Centers (RHCs). The agency's proposed revisions are in keeping with Sections 1 and 2 of SB 1044, 57th Leg., 1st Sess. (Okla. 2019), except that reimbursement rates for PACE providers (Program for the All-inclusive Care for the Elderly) will also be increased by five percent (5%). All rate increases must comply with state and federal law as well as state cost reimbursement methodologies.

The Oklahoma Department of Human Services (DHS) Development Disabilities — Revisions are needed to increase the current fixed and uniform reimbursement rates by four percent (4%) for various Development Disability (DD) services waivers, including: the Homeward Bound Waiver, Community Waiver, In-Home Supports Waiver for adults, and In-Home Supports Waiver for children. The agency's proposed revisions are in keeping with Sections 3 and 4 of SB 1055, 57th Leg., 1st Sess. (Okla. 2019). All rate increases will become effective on October 1st, 2019 or upon approval by the Centers for Medicare and Medicaid Services (CMS).

Inpatient Psychiatric Facilities (Under 21) Revisions — The proposed revisions will create a general specialty add-on payment for children with specialized treatment needs who are being served in psychiatric hospitals, hospitals with a psychiatric wing, and psychiatric residential treatment facilities (PRTFs). Revisions will help offset the increased cost of serving children with specialized treatment needs. Additionally, rules will be added to the behavioral health inpatient psychiatric section to reflect currently approved add-on payments for this setting.