



Kevin Corbett | Chief Executive Officer

J. Kevin Stitt | Governor

I/T/U Public Notice 2020-09

October 21<sup>st</sup>, 2020

**RE: Oklahoma Health Care Authority Proposed Rule, State Plan and Waiver Amendments**

Dear Tribal Representative:

The purpose of this letter is to notify you of proposed changes that will be reviewed at the tribal consultation meeting on November 3<sup>rd</sup>, 2020 at 11 a.m. OHCA invites you to attend this meeting via webinar, 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 to keep you apprised of all proposed changes.

Enclosed are summaries of the current proposed rules, state plan 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, proposed changes must obtain budget authorization and approval by the OHCA board, and when applicable, federal and governor approval must be obtained.

Additionally, OHCA posts all proposed changes on the agency's [Policy Change Blog](#) and the [Native American Consultation Page](#). These public website pages are 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.

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,

Dana Miller  
Director, Tribal Government Relations



**ADDRESS**

4345 N. Lincoln Blvd.  
Oklahoma City, OK 73105



**WEBSITES**

okhca.org  
mysoonerCare.org



**PHONE**

Admin: 405-522-7300  
Helpline: 800-987-7767



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## **Proposed Rule, State Plan, and Waiver Amendments**

**Diabetes Self-Management Education and Support (DSMES) Services** — the proposed revisions will clarify DSMES provider requirements for registered dietitians, registered nurses, and pharmacists. Revisions will also add other health care providers with Certified Diabetes Care and Education Specialist (CDCES) or Board-Certified Advanced Diabetes Management (BC-ADM) certifications as eligible DSMES providers.

**"Certification for SoonerCare" Section Rewrite** — the proposed revisions are necessary to clarify who the rules apply to; there are no substantive changes to the policy.

**Provider Refund to Member when Copayment is Over-Collected** — The proposed revisions will state that a provider will be required to refund any copayment collected from the member in error and/or over the member's aggregate cost sharing maximum.

**Pay-for-Performance (PFP) Program (14-day EXPEDITED)** — The proposed revisions will enable the agency to update the PFP program quality measures when the metrics are modified by the Centers for Medicare and Medicaid Services (CMS). Additional revisions will specify the timeline in which a nursing facility can submit their quality of care documentation in order to receive reimbursement. ***This item requests an expedited 14-day tribal consultation comment period.***

**Employment Services Offered through Developmental Disabilities Services (14-day EXPEDITED)** — the proposed additions will describe group job placements. Additional changes will authorize remote supports for individual placements, and remove the specific limit that the cost of member's employment services, excluding transportation and state-funded services, cannot exceed limits specified in OKDHS Appendix D-26. Furthermore, changes will clarify that adult members receiving In-Home Supports Waiver (IHSW) services can access individual placement in job coaching, job stabilization, and employment training services; however, not to exceed limits specified in OKDHS Appendix D-26 per Plan of Care year. Additional revisions will include updates to standard policy language including cleanup of formatting and grammatical errors plus clarify and update terminology used to reflect current business practices. ***This item requests an expedited 14-day tribal consultation comment period.***



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**Programs of All Inclusive-Care for the Elderly (PACE)** — the proposed revisions will update policy regarding enrollment denials for PACE to reflect current business practices. Additional policy changes will add language to clarify and establish OHCA's role in reviewing justifications for expedited appeals from PACE organizations. These proposed rule changes will align policy with Section 460.122 of Title 42 of the Code of Federal Regulations.

**Developmental Disabilities Services (DDS)** — the proposed revisions will change the timeframe for the physical health examinations and medical evaluations that are required when applying for the DDS Home and Community-Based Services waiver from 90 days to one (1) calendar year. Additionally, changes will add language for remote services that are provided in the member's home, family home, or employment site. Revisions will also address the new agency companion household criteria and new agency champion provider requirements, as well as modify the procedures for the DDS home profile process. Finally, changes will establish new criteria on how the member is to obtain assistive technology devices and will clarify instructions to staff whom are providing Stabilization Services authorized through remote supports.

**ADvantage Waiver** — the proposed revisions to the ADvantage waiver will align language regarding Electronic Visit Verification (EVV) with OHCA's overarching rules. Additional revisions will include updates to standard policy language including cleanup of formatting and grammatical errors plus clarify and update terminology used to reflect current business practices.

**Appeals Language Cleanup (14-day EXPEDITED)** — the proposed revisions will replace incorrect references, found in the OHCA's appeals policy, with the appropriate references. Additionally, revisions will remove appeals language for programs that no longer exist and will identify the appropriate appeal form to fill out when filing an appeal. Finally, revisions will include minor cleanup to fix grammatical and formatting errors. ***This item requests an expedited 14-day tribal consultation comment period.***

**Dental Revisions** — the proposed revisions will add "scaling in the presence of a generalized moderate or severe gingival inflammation" as a new procedure to dental policy. Additional revisions will specify that a caries risk assessment form must be documented when submitting a prior authorization for crowns. Further revisions will clarify billing language for administering nitrous oxide and involve cleanup of formatting and grammatical errors.



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**Electronic Visit Verification (EVV) Update** — this is a follow-up to the EVV items presented at the July 11th, 2018 tribal consultation and the November 5, 2019 consultation. The 21st Century CURES Act requires providers of personal care and home health care services to utilize a system under which visits conducted are electronically verified. The Act mandates that by January 1, 2020 for Personal Care Services and January 1, 2023 for Home Health Services, an EVV system is implemented to capture the type of service performed; the individual receiving the service; the date of the service; the location of service delivery; the individual providing the service; and the time the service begins and ends to be included in the verification process. Due to the State’s demonstration of the extensive system changes and coordination required to implement this mandate, on November 6, 2019, the State received a “Good Faith Effort” (GFE) extension that affords the State for a period of up to one (1) calendar year to fully implement and comply with the CURES Act EVV mandate for personal care services. The State will be compliant with the mandate for personal care services by January 1, 2021.

**Disaster Relief Supplemental Payments to Nursing Facilities for Ventilator-dependent Individuals**— In response to the COVID-19 public health emergency, the OHCA submitted a disaster relief State Plan Amendment (DRSPA) request to CMS on September 21, 2020 to allow for a supplemental payment for the provision of Durable Medical Equipment Supplies and Appliances (DMEPOS) to nursing facilities serving ventilator-dependent individuals, with a retroactive effective date of July 1, 2020. The proposed request received CMS approval on October 15, 2020 and it will be in effect until the termination of the public health emergency.

**PRTF Rate Reinstatement (14-day EXPEDITED)** —The proposed revisions will increase the per diem rate paid to Psychiatric Residential Treatment Facilities (PRTFs) for individuals under 21 receiving inpatient psychiatric services in a PRTF. The rate will be increased to equal the rate paid prior to May 2016 when a 15% rate reduction was implemented for these providers. The rate change will help maintain infrastructure for residential care, with a goal of maintaining access to these services. The proposed rate increase is contingent upon, and must be preceded by, federal approval of the State’s pending 1115(a) Institutions for Mental Disease (IMD) waiver. ***This item requests an expedited 14-day tribal consultation comment period.***



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**Specialty PRTF Rate Increase (14-day EXPEDITED)** —The proposed revisions will increase the per diem rate paid to specialty Psychiatric Residential Treatment Facilities (PRTFs) for individuals under 21 with intellectual and/or developmental disabilities receiving inpatient psychiatric services in a specialty PRTF. The proposed revisions also make changes to the specialty PRTF staffing ratios and criteria for admission. Revisions will help support infrastructure for specialty providers serving children with specialized treatment needs, with a goal of increasing access to these specialized services and reducing out of state placements. The rate increase is contingent upon, and must be preceded by, federal approval of the State’s pending 1115(a) Institutions for Mental Disease (IMD) waiver. ***This item requests an expedited 14-day tribal consultation comment period.***



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