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 11, 2020

The proposed policy is an Emergency Rule. The proposed policy was presented at the November 3, 2020 Tribal Consultation. Additionally, this proposal is scheduled to be presented to the Medical Advisory Committee on November 12, 2020 and the OHCA Board of Directors on November 12, 2020.

REFERENCE: APA WF 20-20 Emergency Rule

Pay-For-Performance Program - The proposed revisions will update the Pay-for-Performance (PFP) program quality measures to align with the most recent metrics modified by the Centers for Medicare and Medicaid. Additional revisions will specify the timeline in which a nursing facility can submit its quality of care documentation to be eligible for reimbursement.

LEGAL AUTHORITY:
The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; Senate Bill 280

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA
OKLAHOMA HEALTH CARE AUTHORITY

SUBJECT: Rule Impact Statement
APA WF # 20-20

A. Brief description of the purpose of the rule:

The proposed policy revisions will comply with Oklahoma Senate Bill 280, which directed the Oklahoma Health Care Authority (OHCA) to modify certain provisions related to reimbursement of long-term care facilities. The proposed policy revisions will update the Pay-for-Performance (PFP) program quality measures to align with the most recent metrics modified by the

Centers for Medicare and Medicaid (CMS). Additional changes will specify the timeline in which a nursing facility can submit its quality of care documentation to be eligible for reimbursement.

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:

SoonerCare members residing in long-term care facilities or seeking long-term care facilities' services will be positively affected by the proposed rule changes. PFP providers will most likely be positively affected by the proposed rule changes as they would be eligible to receive incentives for meeting quality benchmarks. 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:

The proposed rule changes will benefit PFP providers by clarifying on quality care measure criteria and the required timeframe for submitting documentation to be eligible for reimbursement. SoonerCare members residing in long-term care facilities will also benefit from these changes by incentivizing facilities to provide more quality of care initiatives.

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 impact of the proposed rule changes upon 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 proposed rule change will be 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 changes will not have any economic impact on any political subdivisions.

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 changes 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 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 should have a positive effect on the public health, safety, and 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 believe there is a detrimental effect on the public health and safety if the rule is not passed. The agency believes that the approval of this rule change will have

a positive effect for providers who meet the quality measure criteria.

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

Prepared: October 15, 2020
Modified: October 30, 2020

RULE TEXT

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

317:30-5-136.1. Pay-for-Performance (PFP) program

(a) **Purpose.** The ~~Pay-for-Performance (PFP)~~PFP program was established through Oklahoma State Statute, Title 56, Section 56-1011.5 as amended. PFP's mission is to enhance the quality of life for target citizens by delivering effective programs and facilitating partnerships with providers and the community they serve. The program has a full commitment to the very best in quality, service and value which will lead to measurably improved quality outcomes, healthier lifestyles~~;~~, greater satisfaction and confidence for our members.

(b) **Eligible ~~Providers.~~providers.** Any Oklahoma long-term care nursing ~~facilities~~facility that ~~are~~is licensed and certified by the Oklahoma State Department of Health (OSDH) ~~and accommodate SoonerCare members at their facility~~ as defined in Oklahoma Administrative Code (OAC) 317:30-5-120.

(c) **Quality measure care criteria.** To maintain status in the PFP program, each nursing facility shall submit documentation as it relates to program metrics ~~(below)~~ quarterly or upon the request of the Oklahoma Health Care Authority (OHCA). The program metrics can be found on the OHCA's PFP website or on PFP/Quality of Care (QOC) data collection portal. If any quality metric, listed below, is substituted or removed by Centers of Medicare and Medicaid Services (CMS), an alternative quality metric may be chosen. For the period beginning October 1, 2019 and until changed by amendment, qualifying facilities participating in the PFP program have the potential to earn an average of the five dollars ($5.00) quality incentive per Medicaid patient per day. Facility(s) baseline is calculated annually and will remain the same for the

twelve (12) month period. Facility(s) will meet or exceed five-percent (5%) relative improvement or the ~~Centers for Medicare and Medicaid Services~~CMS' national average each quarter for the following metrics:

(1) Decrease percent of high risk/unstageable pressure ulcers for ~~long stay~~long-stay residents.

(2) Decrease percent of unnecessary weight loss for ~~long stay~~long-stay residents.

(3) Decrease percent of use of anti-psychotic medications for ~~long stay~~long-stay residents.

(4) Decrease percent of urinary tract infection for ~~long stay~~long-stay residents.

(d) **Payment.** Payment to long-term care facilities for meeting the metrics will be awarded quarterly. A facility may earn a minimum of ~~$1.25~~one dollar and twenty-five cents ($1.25) per Medicaid patient per day for each qualifying metric. A facility receiving a deficiency of "I" or greater related to a targeted quality measure in the program is disqualified from receiving an award related to that measure for that quarter.

(1) **Distribution of ~~Payment.~~payment.** OHCA will notify the PFP facility of the quality reimbursement amount on a quarterly basis.

(2) **Penalties**. Facilities shall have performance review(s) and provide documentation upon request from OHCA to maintain program compliance. Program payments will be withheld from facilities that fail to submit the requested documentation within fifteen (15) business days of the request.

(3) **Timeframe**. To qualify for program reimbursement by meeting a specific quality measure, facilities are required to provide metric documentation within thirty (30) days after the end of each quarter to the Oklahoma Health Care Authority.

(e) **Appeals.** Facilities can file an appeal with the Quality Review Committee and in accordance, with the grievance procedures found at OAC 317:2-1-2(c) and ~~317:2-1-16.~~317:2-1-17.