

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 20-21 Emergency Rule

Employment Services Offered through Developmental Disabilities Services - The proposed rule revisions will describe group job placements. Additional changes will authorize remote supports for individual placements and remove the specific limit that the cost of the 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, stabilization, and employment training specialist 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.

LEGAL AUTHORITY:

The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; Section 162 Title 56 of the Oklahoma Statutes

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA OKLAHOMA HEALTH CARE AUTHORITY

SUBJECT: Rule Impact Statement
APA WF # 20-21

A. Brief description of the purpose of the rule:

The proposed rule revisions will describe group job placements promoting small group placements up to three members in an integrated work site who are paid at more than minimum wage. Policy changes will also create small groups between four to five members in an integrated work site, who may earn less than minimum wage. Proposed revisions will also create provisions to authorize remote supports for individual placements, 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, revisions will clarify that adult members receiving In-Home Supports Waiver (IHSW) services can access individual placement in job coaching, stabilization, and employment training specialist services not to exceed limits specified in OKDHS Appendix D-26 per Plan of Care year and changes will also clarify/update terminology used. 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.

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 class of persons most affected by the proposed rule will most likely be adult members who receive In-Home Supports waiver services. These members will have access to job coaching services and continuous support throughout their employment. 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 positively benefit adult members, who receive employment services through the In-Home Supports waiver. These members will be provided with the opportunity to receive job coaching services and seek assistance from employment training specialist. By being in accordance with these changes, members will be able to gain

more independence in the workplace and support when and where it is needed.

- 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. 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 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. The proposed rule changes will not have an economic impact on any political subdivision or require their cooperation in implementing or enforcing the rule changes.

- 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 brings the rules into compliance with federal and state law, thereby increasing program effectiveness positively impacting the health, safety, and well-being of individuals receiving DDS services.

- 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 members to have easier access to job placement.

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

Prepared: October 15, 2020

Modified: November 4, 2020

RULE TEXT

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 40. DEVELOPMENTAL DISABILITIES SERVICES

SUBCHAPTER 7. EMPLOYMENT SERVICES THROUGH HOME AND COMMUNITY-BASED SERVICES WAIVERS

317:40-7-7. Job coaching services

- (a) Job coaching services:

(1) ~~are~~Are pre-planned, documented activities related to the member's identified employment outcomes that include training at the work site and support by provider agency staff who have completed ~~DDS~~Developmental Disabilities Services (DDS)

sanctioned training, per ~~OAC~~ Oklahoma Administrative Code (OAC) 340:100-3-38.2;

(2) ~~promote~~ Promote the member's capacity to secure and maintain integrated employment at a job of the member's choice paying at or more than minimum wage, or working to achieve minimum wage;

(3) ~~provide~~ Provide active participation in paid work. Efforts are made in cooperation with employers to adapt normal work environments to fit the needs of members through the maintenance of an active relationship with the business;

(4) ~~are~~ Are available for individual and group placements.

(A) Individual placement is:

(i) ~~one~~ One (1) member receiving job coaching services who:

(I) ~~works~~ Works in an integrated job setting;

(II) ~~is~~ Is paid at or more than minimum wage;

(III) ~~does~~ Does not receive services from a job coach who is simultaneously responsible for continuous job coaching for a group;

(IV) ~~is~~ Is employed by a community employer or provider agency; and

(V) ~~has~~ Has a job description that is specific to the member's work; ~~and.~~

(ii) ~~authorized~~ Authorized when on-site supports by a certified job coach are provided more than ~~20%~~ twenty percent (20%) of the member's compensable work time. Job coaching services rate continues until a member reaches ~~20%~~ twenty percent (20%) or less job coach intervention for four (4) consecutive weeks, at which time stabilization services begin; ~~and;~~

(iii) Authorized through remote supports per Health Insurance Portability and Accountability Act (HIPAA) compliant technology, when the Personal Support Team (Team) has an approved remote supports risk assessment.

(B) ~~Group~~ Small group placement is ~~two to eight members receiving continuous support in an integrated work site, who may earn less than minimum wage ; and:~~

(i) Two (2) to three (3) members receiving continuous support in an integrated work site who are paid at, or more than, minimum wage; or

(ii) Four (4) to five (5) members receiving continuous support in an integrated work site, who may earn less than minimum wage.

(5) ~~are~~ Are based on the amount of time for which the member is compensated by the employer, except per OAC 317:40-7-11.

(b) For members in individual placements, the ~~Personal Support Team (Team):~~ Team:

- (1) ~~evaluates~~Evaluates the need for job coaching services at least annually; and
 - (2) ~~documents~~Documents a plan for fading job coaching services as the member's independence increases.
- (c) When the member receives commensurate compensation, employment goals include, but are not limited to, increasing:
- (1) ~~productivity;~~Productivity;
 - (2) ~~work quality;~~Work quality;
 - (3) ~~independence;~~Independence;
 - (4) ~~minimum wage opportunities; and~~Minimum wage opportunities;
 - (5) ~~competitive work opportunities.~~Competitive work opportunities.

317:40-7-15. Service requirements for employment services through Home and Community-Based Services (HCBS) Waivers

(a) The Oklahoma ~~Department of Human Services (DHS)~~(OKDHS) Developmental Disabilities Services (DDS) case manager, the member, the member's family or, when applicable, the member's legal guardian, and the member's provider develop a preliminary plan of services including the:

- (1) ~~site~~Site and amount of the services offered;
- (2) ~~types~~Types of services to be delivered; and
- (3) ~~expected~~Expected outcomes.

(b) To promote community integration and inclusion, employment services are delivered in non-residential sites.

(1) Employment services through HCBS waivers cannot be reimbursed when those services occur in the residence or property of the member or provider-paid staff, including garages and sheds, whether or not the garage or shed is attached to the home ~~or not~~.

(2) No exceptions to Oklahoma Administrative Code (OAC) 317:40-7-15(b) are authorized except when a home-based business is established and supported through ~~the Oklahoma Department of Rehabilitation Services (OKDRS).~~(DRS). Once ~~OKDRS~~DRS stabilization services end, DDS stabilization services are then utilized.

(c) The service provider is required to notify the DDS case manager in writing when the member:

- (1) ~~is~~Is placed in a new job;
- (2) ~~loses~~Loses his or her job. A personal support team (Team) meeting must be held when the member loses the job;
- (3) ~~experiences~~Experiences significant changes in the community-based or employment schedule; or
- (4) ~~is~~Is involved in critical and non-critical incidents per OAC 340:100-3-34.

(d) The provider submits a DHS Provider Progress Report, per OAC 340:100-5-52, for each member receiving services.

(e) The cost of a member's employment services, excluding transportation and state-funded services ~~per OAC 340:100-17-30,~~ cannot exceed ~~\$27,000~~limits set forth in OKDHS Appendix D-26, Developmental Disabilities Services Rates Schedule, per Plan of Care (POC) year.

(f) Each member receiving HCBS is supported in opportunities to seek employment and work in competitive integrated settings. When the member is not employed in a competitive integrated job, the Team identifies outcomes, ~~and/or~~ action steps, or both, to create opportunities that move the member toward competitive integrated employment.

(g) Each member receiving residential supports, per OAC 340:100-5-22.1, or group-home services is employed for thirty (30) hours per week or receives a minimum of thirty (30) hours of employment services each week, excluding transportation to and from his or her residence.

(1) Thirty (30) hours of employment service each week may be a combination of community-based services, center-based services, employment training specialist (ETS) intensive training services, stabilization services, or job coaching services. Center-based services cannot exceed fifteen (15) hours per week for members receiving services through the Homeward Bound Waiver.

(2) When the member does not participate in thirty (30) hours per week of employment services, the Team:

(A) ~~documents~~Documents the outcomes and/or action steps to create a pathway that moves toward employment activities;

(B) ~~describes~~Describes a plan to provide a meaningful day in the community; or

(C) ~~increases~~Increases the member's employment activities to thirty (30) hours per week.

(h) Adult members receiving In-Home Supports waiver services can access individual placement in job coaching, stabilization, and employment training specialist services not to exceed limits specified in OKDHS Appendix D-26, per POC year.