

Oklahoma Health Care Authority
MEDICAL ADVISORY COMMITTEE
July 13, 2023
1:00 – 3:30 PM
Charles Ed McFall Board Room

AGENDA

Please access via zoom:

https://www.zoomgov.com/webinar/register/WN_YKoPEAE1RNCfACBcaAoSOQ

Webinar ID- 160 753 3931

- I. Welcome, Roll Call, and Public Comment Instructions: **Chairman, Jason Rhynes, O.D.**
- II. Action Item: Approval of Minutes of the May 4th, 2023: **Medical Advisory Committee Meeting**
- III. Public Comments (2 minute limit)
- IV. MAC Member Comments/Discussion
- V. Proposed Rule Changes: Presentation, Discussion, and Vote: **Kasie McCarty, Senior Director of Federal and State Authorities**
 - A. **APA WF # 23-17 Statewide Health Information Exchange (HIE)**
- VI. New Business: **Chairman, Jason Rhynes, O.D.**
- VII. Future Meeting: **Chairman, Jason Rhynes, O.D.**

September 7, 2023
November 2, 2023
- VIII. Adjourn **Chairman, Jason Rhynes, O.D.**

Oklahoma Health Care Authority
MEDICAL ADVISORY COMMITTEE
MINUTES of the May 4, 2023, Meeting
4345 N. Lincoln Blvd., Oklahoma City, OK 73105

I. Welcome, Roll Call, and Public Comment Instructions:

Chairman, Dr. Jason Rhynes called the meeting to order at 1:00 PM.

Delegates present were: Ms. Joni Bruce, Mr. Brett Coble, Dr. Steven Crawford, Ms. Janet Cizek, Ms. Wanda Felty, Dr. Arlen Foulks, Ms. Tina Johnson, Ms. Jennifer King, Ms. Melissa Miller, Dr. Daniel Post, Dr. Jason Rhynes, and Dr. Whitney Yeates, providing a quorum.

Alternates present were: Ms. Marny Dunlap

Delegates absent without an alternate were: Mr. Nick Barton, and Dr. Raymond Smith

II. Approval of the May 4th, 2023 Minutes

Medical Advisory Committee

The motion to approve the minutes was by Dr. Daniel Post and seconded by Ms. Wanda Felty and passed unanimously.

III. Public Comments (2-minute limit):

There were no public comments.

IV. MAC Member Comments/Discussion:

Dr. Steven Crawford had questions regarding apixaban. Dr. Terry Cothran responded that we are in the middle of making changes to our PA's.

V. Financial Report:

Aaron Morris, Chief Financial Officer

Mr. Morris presented the financial report ending in January 2023. OHCA is .1% under budget in revenues and 0.3% under budget in expenditures with the result that our budget variance is a negative \$7,899,890. The budget variance is primarily attributed to the following: Medicaid Program Variance is a positive 14.2 million state dollars, and administration is a positive 0.9 million state dollars. For more detailed information, see item 5 in the MAC agenda. For more detailed information, see item 5 in the MAC agenda.

VI. Legislative Update: Christina Foss, Deputy Chief of Staff

Christina Foss, Deputy Chief of Staff

Ms. Foss stated that we have four request bills from the agency, a couple are just cleaning up the bill as we move to managed care. HB1657 which streamlines our provider enrollment and

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credentialing process, and then HB1658, which allows is to sign general contracts. Both are currently on the House side waiting for Senate amendments to be accepted, and once they are they go to the governor's desk. HB1791, a bill OHCA has requested a few times that deals with our Medicaid leans, and dealing with our kinds of recoupment, and third-party liability situations, has gone through the process and signed by the governor. SB744 is our public ambulance service provider access payment program did not make it through the signing and has been back and forth between the House and Senate. However, we still anticipate being able to keep that supplemental payment rolling. SB1120 was passed a couple of weeks ago, and this appropriated our dollars in our enhanced FMAP funds as part of the agency's budget was vetoed and is in the House for the next steps.

VII. Medicaid Director's Update

Traylor Rains, State Medicaid Director

Mr. Rains gave a reminder that the PHE officially ends on May 7th, and along with that comes the unwinding peaks of eligibility which is already started. There will be roughly 30,000 increments every month through December based on need. By the time a member has enrolled they will have received about four to five letters from us. We also have a robust return mail process, so that if we get a piece of return mail, we try everything on file such as an email and now texting. There was a federal regulation that recently changed allowing us to text our members. Another reminder that the end of the PHE means that the stay of enforcement for HIPPA compliant platforms for telehealth also goes away. After the 11th, providers need to make sure that whatever platform they are using for telehealth needs to be up to compliant.

We will start doing site visits again, there's a couple of tiers of providers that are being higher risk than others, so they require a site visit prior to their involvement with us. The enrollment fees are also coming back for when you contract with us. We have our dental partners, Liberty Dental and DentaQuest. Pending contract signatures as Christina mentioned earlier, there was a piece of legislature that needed to be amended, but we are operating in good faith with the two. Legislation requires an October implementation pending CMS approval, and we quickly realized that CMS approval within that timeline, given not only the waiver, but also the readiness activities won't happen. We worked with legislative leadership around that and now we are looking at February of 2024 for dental, and April of 2024 for Medical.

A. Medical Update:

Paula Root, Senior Medical Director/Interim Chief Medical Officer

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Dr. Root gave a presentation on total Cervical Disc Arthroplasty also known as artificial disc replacement. Cervical artificial disc replacement surgery is a joint replacement procedure, that involves inserting an artificial disc between the vertebrae to replace a natural spinal disc after it has been removed. The disc is designed to maintain motion in the treated vertebral segment. Dr. Root also discussed the goals, indications, and PA process. Dr. Root also presented and overview of Osteopathic Manipulative Treatment (OMT). A therapeutic application of manually guided forces by an osteopathic physician to improve physiologic function and/or support homeostasis that has been altered by somatic dysfunction. S well as the goals, coverage, and PA override criteria. For more detailed information see item 7A in the MAC agenda.

VIII. Comprehensive Quality Strategy Update:

Chris Radley, Chief Quality Officer

Mr. Radley gave a presentation on SoonerSelect Quality Strategy and why they are here, Medicaid program goals, Programs, Quality strategy development, contractors, contractor selection and requirements, quality assessments, HEDIS measures, CMS core set measures, PIPS, health equity, network adequacy, external quality review, benefits of SoonerSelect for enrollees, enrollee rights, transitions of care, as well as grievance and appeal. For more detailed information see item 8 in the MAC agenda.

IX. Proposed Rule Change: Presentation, Discussions, and Vote:

Kasie McCarty, Senior Director of Federal and State Authorities

APA WF # 23-02 Insure Oklahoma Self-Funded/Self-Insured Plans — The proposed rules will update Insure Oklahoma policy to comply with Oklahoma Senate Bill 1323, which added language to Title 56 Oklahoma Statutes (O.S.) § 1010.1. The policy additions mirror the bill's language regarding self-funded/self-insured plans to address that qualified benefit plans may become a self-funded or self-insured benefit plan if certain criteria are met.

Budget Impact: Budget neutral

The rule change motion to approve as by Dr. Steven Crawford and seconded by Mr. Brett Coble and passes unanimously.

APA WF # 23-09 Copayment exemption for expansion adults — The Affordable Care Act (ACA) requires states to cover preventive services for expansion adults without any cost sharing. The proposed rules will update the list of services exempted from copayments to ensure the ACA requirement is reflected in the rule as well as exempt vaccine administration from cost sharing for all members eligible to incur a copay.

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Budget Impact: The estimated budget impact, for SFY2023, will be an increase in the total amount of \$81,123; with \$8,122 in state share. The estimated budget impact, for SFY2024 will be an increase in the total amount of \$81,123; with \$8,112 in state share.

The rule change motion to approve as by Dr. J. Daniel Post and seconded by Dr. Marny Dunlap and passes unanimously.

APA WF # 23-10 Doula Services — The proposed additions will implement doula services as a covered benefit to SoonerCare members. The policy additions will outline what a doula is and the specific services/requirements including but not limited to, certification requirements from one of the Agency-recognized organizations, a referral from a licensed medical provider (physician, physician's assistant (PA), obstetrician, certified nurse midwife), and be at least 18 years of age. Furthermore, policy will outline that members will have eight doula visits, including one for labor and delivery care. Finally, additions will state that reimbursement for doula services is outlined in the Oklahoma Medicaid State Plan.

Budget Impact: The estimated budget impact for SFY 2024 will be an increase in the total amount of \$2,734,572; with \$861,732 in state share. The estimated budget impact for SFY 2025 will be an increase in the total amount of \$2,734,572; with \$887,916 in state share.

The rule change motion to approve as by Dr. J. Daniel Post seconded by Ms. Melissa Miller and passes unanimously.

APA WF # 23-11 Private Duty Nursing (PDN) Reimbursement and Overtime — The proposed revisions will add clarification regarding the reimbursement for Private Duty Nursing (PDN) services, including when overtime payment is appropriate. Further revisions will state that overtime is only available for nursing staff who are providing services to members with tracheostomies or who are medically dependent on a ventilator for life support at least six (6) hours per day. This excludes members who are on non-invasive C-PAP or Bi-PAP devices only.

Budget Impact: The estimated budget impact, for SFY2023, will be an increase in the total amount of \$733,401; with \$157,241 in state share. The estimated budget impact for SFY2024 will be an increase in the total amount of \$4,368,349; with \$1,420,150 in state share.

The rule change motion to approve as by Dr. J. Daniel Post and seconded by Mr. Brett Coble and passes unanimously.

APA WF # 23-12 Enhanced Payment for Vocational & Day Services Provided in Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IIDs) — The proposed revisions will implement changes to comply with Oklahoma Senate Bill 1074 which authorizes the

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Oklahoma Health Care Authority (OHCA) to implement an enhanced payment program for Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) that offer vocational services or day program services or both. The purpose of the enhanced payment is to offset the costs incurred by ICFs/IID in these services as these services are currently funded by donations/charity. The enhanced payment will be in addition to all other reimbursement from the OHCA.

Budget Impact: The estimated budget impact for SFY 2023, will be an increase in the total amount of \$2,414,603; with \$782,392 in state share. The estimated budget impact for SFY 2024 will be an increase in the total amount of \$7,243,810; with \$2,347,175 in state share.

The rule change motion to approve as by Ms. Wanda Felty and seconded by Dr. Arlen Foulks and passes unanimously.

APA WF # 23-14 Audio-only Telecommunications Health Service Delivery — The proposed policy revisions allow for the audio-only telecommunications health service delivery for medically necessary covered primary care and other approved health services. Audio-only telecommunications delivery means healthcare services delivered through the use of audio-only technology, permitting real-time communication between a patient and the provider, for the purpose of diagnosis, consultation, or treatment, and does not include the use of facsimile or email nor the delivery of health care services that are customarily delivered by audio-only technology and customarily not billed as separate services by the provider, such as the sharing of laboratory results. The proposed rules include definitions and requirements for service provision and reimbursement.

Budget Impact: The estimated budget impact for SFY 2024, will be an increase in the total amount of \$1,759,405; with \$554,433 in state share. The estimated budget impact for SFY 2025 will be an increase in the total amount of \$1,759,405; with \$521,279 in state share.

The rule change motion to approve as by Dr. Arlen Foulks and seconded by Dr. Steve Crawford and passes unanimously.

X. MAC Meeting Dates for Calendar 2023:

Chairman, Jason Rhynes, O.D.

July 6, 2023

September 7, 2023

November 2, 2023

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XI. **New Business:**

Chairman, Jason Rhynes, O.D.

Discussion was made regarding the cancellation of the July MAC meeting. No members opposed.

XII. **Adjourn:**

Chairman, Jason Rhynes, O.D.

Chairman Rhynes asked for a motion to adjourn. Motion was provided by Dr. Steven Crawford and seconded by Dr. Arlen Foulks, there was no dissent and the meeting adjourned at 2:54pm.

DRAFT

Special July MAC Proposed Rules Amendment Summary

These proposed EMERGENCY rules were presented at the Jul. 5, 2023, Tribal Consultation meeting and were subject to a 14-day public comment period.

The Agency is requesting the effective date to be immediately upon Governor's approval or **July 17, 2023**. The Governor will have until **Aug. 31, 2023**, to approve or disapprove the rule.

APA WF # 23-17 Statewide Health Information Exchange (HIE) – Oklahoma Senate Bill 1369 of the 2022 Legislative Session implemented changes to the Statewide HIE resulting in the Agency adopting permanent rules on March 22, 2023 and the Governor subsequently disapproving those rules on June 23, 2023. The new proposed emergency revisions were written to align policy with feedback received from members, providers, and the Governor which allow the HIE Coordinator to grant exemptions from the HIE when requested by any provider. Additionally, the proposed revisions provide information about the availability of grant funds to help cover connection fees.

Budget Impact: The proposed rules are budget neutral for the agency; however, there will be a cost for providers to connect and subscribe to the statewide HIE as well as grant funds to help cover the connection costs.

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 1. GENERAL SCOPE AND ADMINISTRATION

317:30-3-35. Oklahoma State Health Information Network and Exchange (OKSHINE) Statewide Health Information Exchange

(a) **Authority.** This rule is promulgated under the authority granted in Title 63 of the Oklahoma Statutes Section 1-133 (63 O.S. § 1-133). This Section is intended to be read in conjunction with applicable Oklahoma statutes and federal law.

(b) **Applicability and purpose.**

(1) **Applicability.** This section shall apply to and govern the establishment and operation of the statewide health information exchange (HIE), ~~herein referred to as OKSHINE.~~

(2) **Purpose.** ~~OKSHINE is the state-designated organization that facilitates the exchange of health information to and from authorized individuals and health care organizations in the state for the purpose of improving health outcomes, as per 63 O.S. § 1-133.~~ The Office of the State Coordinator for HIE is the office within the Oklahoma Health Care Authority (OHCA) that holds the power and duty to oversee the state-designated entity (SDE) for HIE including the oversight of HIE operations and the process in which the SDE establishes fees.

(c) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) ~~"OKSHINE" means an organization that oversees, governs, and facilitates health information exchange among health care providers that are not related health care organizations as defined in the Oklahoma Statutes, to improve the security of patient information, coordination of patient care, and the efficiency of health care delivery.~~

(2) ~~"Participant" means an organization, health care practitioner or institution, health plan, or health care clearinghouse who has executed a written participation agreement (PA) and business associate agreement (BAA) with OKSHINE.~~

(3) ~~"Participant agreement" means the agreement between OKSHINE and a participant which authorizes the participant to have access to OKSHINE and outlines the policies and procedures for access, protection, and use of the electronic protected health information.~~

(4) ~~"Oklahoma Statewide Health Information Exchange (OKHIE)" means a certified HIE as referenced in 63 O.S. § 1-133 whose primary business activity is health information exchange.~~

(1) **"Health care provider"** means any public or private organization, corporation, authority, partnership, sole proprietorship, association, agency, network, joint venture, or other entity that is established and licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of business or practice of a profession and/or employs licensed health care workers in the State of Oklahoma. Health care provider includes but is not limited to facilities such as: ambulatory surgery centers, clinics, home care agencies, hospices, hospitals, intermediate care facilities, laboratories, long-term care agencies, medical centers, mental health and substance use disorder treatment centers, nursing homes, PACE centers, pharmacies, physicians' offices, psychiatric hospitals, public health clinics, and rehabilitation centers.

(2) **"Health Information Exchange (HIE)"** means the electronic movement of health-related

information among organizations according to nationally recognized standards for purposes including, but not limited to payment, treatment, and administration.

(3) "Health information exchange organization" means an entity whose primary business activity is health information exchange and which is governed by its stakeholders.

(4) "OKSHINE" means the Oklahoma Statewide Health Information Network and Exchange, a collective effort of the Office of the State Coordinator and SDE in support of statewide health information exchange.

(5) "Report data to" means that health care providers shall establish a direct, secure connection to the state designated entity for HIE and submit data according to the United States Core Data for Interoperability (USCDI) standard. The form and format are further defined in the specifications on the OKSHINE website. Providers shall transmit data types they collect within their Electronic Health Record, with the exception of any data that: 1) the provider determines to be sensitive patient information that is to be suppressed from transmission to the SDE; 2) is subject to a patients' request for exclusion, consistent with a provider-implemented policy; or 3) such transmission would violate state or federal law or regulation.

(6) "State designated entity (SDE)" means the health information exchange organization designated by the State of Oklahoma. The name and contact information for the state designated entity for HIE is found on the OKSHINE website.

(7) "Utilize" means to actively use the HIE services to securely access records during and/or in support of patient treatment or health care operations.

~~(d) **OKHIE Certification.** Per 63 O.S. '1-133, an initial certification and an annual recertification will be required for health information exchanges to qualify as an OKHIE. In order to receive certification, the applying HIE must submit an application to the Oklahoma Health Care Authority (OHCA) and provide all requested documentation. The application and standards for certification shall be posted on the OHCA OKSHINE public website.~~

~~(1) The OHCA shall establish a health information exchange certification with input from stakeholders.~~

~~(2) Until such time as the health information exchange certification is established by the OHCA, an OKSHINE or an HIE organization that was previously certified by the Oklahoma Health Information Exchange Trust (OHJET) shall be deemed an OKHIE.~~

~~(3) An HIE must provide documentation of certification from OHJET to OHCA in order to receive initial OKHIE certification.~~

~~(e) **Fees.**~~

~~(1) **Certification fees.** Each health information exchange which applies for certification, will be required to pay annual certification/recertification fees. The OHCA will develop the certification criteria and will publish the criteria and associated fees, when available, on the OHCA OKSHINE public website.~~

~~(2) **Participant fees.** Each participant, as defined in this section, will be required to pay an annual participation fee as outlined in the participant agreement. The OHCA will develop the criteria for the fees and will publish the criteria when available. The participant agreement and fee schedule will be posted on the OHCA OKSHINE public website.~~

~~(d) **Required participation.**~~

~~(1) All health care providers as defined above and who are licensed by and located in the state of Oklahoma and are not otherwise exempted, shall submit an application to report data to and~~

utilize the SDE. Providers may register for an exemption from required participation as specified in paragraph (f) of this Section.

(2) Paragraph (d) of this Section shall not apply to:

(A) A health care provider that does not currently own or subscribe to an electronic health records technology system or service.

(B) Health care providers classified as substance abuse treatment facilities covered by 42 Code of Federal Regulations (CFR) Part 2.

(3) Patient-specific protected health information requiring patient consent prior to disclosure, shall only be disclosed in compliance with relevant state or federal privacy laws, rules, regulations, or policies including, but not limited to, the Health Insurance Portability and Accountability Act of 1996, and any laws that require patient consent prior to sharing health information.

(4) The state acknowledges that establishing the connection to the HIE can take substantial time to complete. A health care provider will be considered to have met the requirement to report data to the SDE as long as the provider is actively engaged with the HIE in the onboarding process of connecting to the HIE, and as reported by the SDE.

(5) In order to meet the requirement to utilize the SDE, each health care provider shall secure access to HIE services by the following:

(A) Completing and maintaining an active participation agreement with the SDE for HIE;

(B) Executing annually an order form electing at a minimum the set of core services relevant to the provider practice or organization; and

(C) Maintaining good standing as a participating organization in the SDE for HIE by remaining compliant with the terms and conditions, network policies and procedures, and paying all fees associated with the services elected on the order form.

(e) Fees.

(1) **Subscription fees.** Health care providers as defined in this section are required to subscribe and to pay a subscription fee directly to the SDE on a monthly or annual basis. Subscription fees are determined based on the organization type and size. Subscription fee schedule is established by the SDE based on network operating costs as approved by the SDE board and can be obtained upon request to the SDE. The Office of the State Coordinator for HIE shall receive notice from the SDE of the established subscription fee schedule or changes to the fee schedule no later than ninety (90) days prior to the effective date.

(2) **Connection fees.** Health care providers as defined in this section are required to connect their electronic health record to the SDE to securely report data to the HIE. This is a variable one-time fee paid to the SDE. The Office of the State Coordinator for HIE shall receive notice of connection fees established by the SDE no later than thirty (30) days of being established.

(3) **Grant funds.** Health care providers may apply for a grant to cover connection fees subject to the availability of funds. Grant fees for connection will be paid directly to the SDE on behalf of the provider. Information on grant eligibility can be found on OKSHINE website.

(f) Exemptions.

(1) Any health care provider as defined in paragraph (c) of this section may register an exemption from reporting data to the SDE and/or utilizing the HIE on the OKSHINE website by registering an exemption with the Office of the State Coordinator for HIE.

(2) All providers that register an exemption will be granted such exemption and relieved from any requirement to pay subscription fees and/or connection fees.

(3) The exemption will automatically renew annually unless the provider withdraws their exemption and elects to participate.