

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: March 3, 2022

The proposed policy changes are currently in effect as Emergency Rules and must be promulgated as Permanent Rules. The proposed policy was presented at the July 7, 2020, Tribal Consultation. Additionally, this proposal was presented to the Medical Advisory Committee on September 9, 2021. Furthermore, this proposal will be presented at a Public Hearing scheduled for March 8, 2022. Finally, the proposed changes are scheduled to be presented as permanent rules to the OHCA Board of Directors on March 16, 2022.

REFERENCE: APA WF # 21-01

SUMMARY:

Reimbursing Federally Qualified Health Centers (FQHCs) for Long- Acting Reversible Contraceptives (LARCs) Outside of the Encounter Rate - The proposed rules add language to clarify that reimbursement for LARCs will be paid outside of the FQHCs encounter rate.

LEGAL AUTHORITY:

The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; 42 Code of Federal Regulations Part 491

RULE IMPACT STATEMENT:

**STATE OF OKLAHOMA
OKLAHOMA HEALTH CARE AUTHORITY**

SUBJECT: Rule Impact Statement
APA WF # 21-01

A. Brief description of the purpose of the rule:

The proposed rules add language to clarify that reimbursement for long-acting reversible contraceptive (LARC) devices will be paid outside of the Federally Qualified Health Center's (FQHCs) encounter rate.

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 proposed rule changes will positively affect FQHC providers and members who utilize

LARC devices.

- C. A description of the classes of persons who will benefit from the proposed rule:

The proposed rule changes will benefit FQHC providers who will now receive additional reimbursement to cover the cost of LARCs. Allowing payment of LARCs outside of the FQHC encounter rate may also increase members' access to such devices.

- 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 proposed rule changes will not have an adverse effect on small business.

- 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 could prevent members access to LARC devices.

- 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 better access to LARCs as a method of family planning.

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

Prepared: July 27, 2021

Modified: August 17, 2021

RULE TEXT:

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

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 75. FEDERALLY QUALIFIED HEALTH CENTERS

317:30-5-664.1. Provision of other health services outside of the Health Center core services

(a) If the Center chooses to provide other Oklahoma Medicaid State Plan covered health services which are not included in the Health Center core service definition in OAC 317:30-5-661.1, the practitioners of those services are subject to the same program coverage limitations, enrollment, and billing procedures described by the OHCA, and these services (e.g., home health services) are not included in the PPS settlement methodology in OAC 317:30-5-664.12.

(b) Other medically necessary health services that will be reimbursed at the FFS rate include, but are not limited to:

- (1) Dental services (refer to OAC 317:30-5-696) except for primary preventive dental services;
- (2) Eyeglasses (refer to OAC 317:30-5-431, 317:30-5-432.1 and 317:30-5-451);
- (3) Clinical lab tests performed in the Center lab (other than the specific laboratory tests set out for Health Centers' certification and covered as Health Center services);
- (4) Technical component of diagnostic tests such as x-rays and EKGs (interpretation of the test provided by the Center physician is included as physician professional services);
- (5) Durable medical equipment (refer to OAC 317:30-5-210);
- (6) Transportation by ambulance (refer to OAC 317:30-5-335);
- (7) Prescribed drugs (refer to OAC 317:30-5-70);
- (8) Prosthetic devices (other than dental) which replace all or part of an internal body organ (including colostomy bags) and supplies directly related to colostomy care and the replacement of such devices;
- (9) Specialized laboratory services furnished away from the clinic;

- (10) Psychosocial rehabilitation services (refer to OAC 317:30-5-241.3);
- (11) Behavioral health related case management services (refer to OAC 317:30-5-241.6); and
- (12) Applied behavior analysis (ABA) (refer to OAC 317:30-3-65.12).
- (13) Diabetes self-management education and support (DSMES) services (refer to OAC 317:30-5-1080 through 317:30-5-1084).
- (14) Long-acting reversible contraceptive devices (devices are not considered part of the FQHC encounter rate and can be billed separately).

317:30-5-664.5. Federally Qualified Health Center (FQHC) encounter exclusions and limitations

(a) Service limitations governing the provision of all services apply pursuant to ~~OAC~~Oklahoma Administrative Code (OAC) 317:30. Excluded from the definition of reimbursable encounter core services are:

- (1) Services provided by an independently ~~CLIA~~Clinical Laboratory Improvement Amendments certified and enrolled laboratory;
- (2) Radiology services including nuclear medicine and diagnostic ultrasound services;
- (3) Venipuncture for lab tests is considered part of the encounter and cannot be billed separately. When a member is seen at the clinic for a lab test only, use the appropriate ~~CPT~~Current Procedural Terminology code. A visit for "lab test only" is not considered a Center encounter;
- (4) ~~Durable medical equipment or medical supplies~~Medical supplies, equipment, and appliances not generally provided during the course of a Center visit such as diabetic supplies. However, gauze, band-aids, or other disposable products used during an office visit are considered as part of the cost of an encounter and cannot be billed separately under SoonerCare.
- (5) Supplies and materials that are administered to the member are considered a part of the physician's or other health care practitioner's service;
- (6) Drugs or medication treatments provided during a clinic visit are included in the encounter rate. For example, a member has come into the Center with high blood pressure and is treated at the Center with a hypertensive drug or drug samples provided to the Center free of charge are not reimbursable services and are included in the cost of an encounter. Prescriptions are not included in the encounter rate and must be billed through the pharmacy program by a qualified enrolled pharmacy;
- (7) Administrative medical examinations and report services;
- (8) Emergency services including delivery for pregnant members that are eligible under the Non-Qualified (ineligible) provisions of OAC 317:35-5-25;
- (9) SoonerPlan family planning services;
- (10) Long-acting reversible contraceptive devices (devices are not considered part of the FQHC encounter rate and can be billed separately).
- ~~(10)~~(11) Optometry and podiatric services other than for dual eligible for Part B of Medicare;
and
- (12) Diabetes self-management education and support (DSMES) services (refer to OAC 317:30-5-1080 through 317:30-5-1084); and
- ~~(11)~~(13) Other services that are not defined in this rule or the Oklahoma Medicaid State Plan.

(b) In addition, the following limitations and requirements apply to services provided by ~~Health Centers:~~FQHCs:

- (1) Physician services are not covered in a hospital.
- (2) Behavioral health case management and psychosocial rehabilitation services are limited to ~~Health Centers~~FQHCs enrolled under the provider requirements in OAC 317:30-5-240 and contracted with OHCA as an outpatient behavioral health agency.

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