

## 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:** January 2, 2024

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 Tribal Consultation held on March 7, 2023, and to the Medical Advisory Committee on May 4, 2023. Additionally, this proposal will be presented at a Public Hearing scheduled for January 8, 2024, and is scheduled to be presented as Permanent Rules to the OHCA Board of Directors on January 17, 2024.

**REFERENCE: APA WF 23-12**

### **SUMMARY:**

The proposed rule changes will 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.

### **LEGAL AUTHORITY:**

The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; Oklahoma Senate Bill 1074; and Oklahoma Senate Bill 1040

### **RULE IMPACT STATEMENT:**

#### **STATE OF OKLAHOMA OKLAHOMA HEALTH CARE AUTHORITY**

**SUBJECT:** Rule Impact Statement  
APA WF #23-12

**A. Brief description of the purpose of the rule:**

The proposed revisions implement changes to comply with Oklahoma Senate Bill 1074 which authorizes the 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.

**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 affect SoonerCare members who reside in ICFs/IID. This rule change 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 benefit SoonerCare members who reside in ICFs/IID by increasing access to vocational services and/or day program services.

- 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 economic impact and there are no fee changes associated with the rule change for the above classes of persons or any 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:

The estimated total cost for SFY 2023 is \$2,414,603 (\$1,632,211 in federal share and \$782,392 in state share). The estimated total cost for SFY 2024 is \$7,243,810 (\$4,896,634 in federal share and \$2,347,175 in state share).

- 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 does not have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule.

- 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 should not have an adverse effect on small businesses as provided by the Oklahoma Small Business Regulatory Flexibility Act.

- 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 anticipate any detrimental effect on the public health, safety, or environment if the proposed rule changes are not implemented.

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

Prepared: March 9, 2023

Modified: November 21, 2023

**RULE TEXT:**

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

**SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALITIES**

**PART 9. LONG-TERM CARE FACILITIES**

**317:30-5-136.2 Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) Enhanced Payment Program**

**(a) Overview.** This program provides enhanced payment for private ICFs/IID that provide vocational services or day program services or both. The purpose of the enhanced payment is to offset the costs incurred by ICFs/IID in the provision of vocational services or day program services or both. Residents who qualify for the enhanced program cannot receive the same services or reimbursement under another program.

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

**"Day program services"** means a life enrichment program that is conducted in a dedicated service location. The organized scheduled programming will vary but must meet the specific program qualifications for participation. Day services programs provide diverse opportunities for residents to participate in the broader community based on the resident's specific care plan.

**"Direct costs"** means the costs for activities or items associated with day services and/or vocational services programs. These items include salaries and wages of activities staff, day services and vocational staff, and job coaches.

**"Other costs"** means overhead costs attributable to the provision of day and vocational services. For example, rent, utilities, etc., not already paid for by Medicaid.

"Quality Review Committee" means a committee responsible for the oversight of monitoring and analyzing the accessibility and appropriateness of services being delivered.

"Vocational services" means the provision of paid employment in a structured vocational training program for residents outside of the resident's home. The type of work will vary but each provider must meet the specific program qualifications for participation. Vocational service programs provide pre-vocational services training, that prepare the residents for employment in a structured educational program. These programs will utilize either a certified job coach or a designated staff, to assist a resident eighteen (18) years and older, in achieving gainful employment. Other achievements may include, sheltered employment, ongoing employment support, job skills training and/or workshop experience in the community.

(c) Care criteria. Facilities will comply with the following care criteria to receive the enhanced payment:

(1) Vocational services. Facilities will provide twenty (20) hours of vocational services to at least forty percent (40%) of their residents each week. Residents must participate at least nine (9) out of twelve (12) weeks.

(2) Day services. Facilities will provide twenty (20) hours of day services to at least sixty percent (60%) of the facility's residents who do not participate in the facility's vocational program. Residents must participate at least nine (9) out of twelve (12) weeks.

(d) Performance Review. Performance reviews will be completed quarterly to ensure the integrity and accountability of the vocational and/or day treatment services provided. Facilities shall provide documentation as requested and directed by the Oklahoma Health Care Authority (OHCA) within fifteen (15) business days of request. Program payments will be withheld from facilities that fail to meet performance review standards.

(e) Appeals. Facilities can file an appeal related to their performance review with the Quality Review Committee and in accordance with the grievance procedures found at Oklahoma Administrative Code (OAC) 317:2-1-2 and 317:2-1-17.

(f) Reimbursement methodology and payment. Reimbursement and payment for the ICF/IID Enhanced Payment Program are provided in accordance with the Oklahoma Medicaid State Plan.

(g) Cost audit. Each facility will be audited annually as part of the annual cost report reviews to ensure only allowable costs prescribed by Medicare/Medicaid cost reporting principles are reported. As part of the annual audit, OHCA will ensure that there are no duplicative costs attributable to base rate and the enhanced payments. Payments will be recouped from facilities that report unallowable costs. Additional audits can be conducted anytime at the discretion of the OHCA.