



Kevin Corbett | Chief Executive Officer

J. Kevin Stitt | Governor

I/T/U Public Notice 2021-16

October 19, 2021,

RE: Oklahoma Health Care Authority Proposed Rule, State Plan and Waiver Amendments

Dear Tribal Representative:

The purpose of this letter is to notify you of proposed changes that will be reviewed at the tribal consultation meeting on November 2nd, 2021, at 11 a.m. OHCA invites you to attend this meeting via webinar, and we welcome any comments regarding the proposed changes. The agency is committed to active communication with tribal governments during the decision-making and priority-setting process to keep you apprised of all proposed changes.

Enclosed are summaries of the current proposed rules, state plan and waiver amendments for your review. The summaries describe the purpose of each change.

Please note that these are only proposed changes and have not yet taken effect. Before implementation, proposed changes must obtain budget authorization and approval by the OHCA board, and when applicable, federal and governor approval must be obtained.

Additionally, OHCA posts all proposed changes on the agency's [Policy Change Blog](#) and the [Native American Consultation Page](#). These public website pages are designed to give all constituents and stakeholders an opportunity to review and make comments regarding upcoming policy changes. To ensure that you stay informed of proposed policy changes, you may sign up for web alerts to be automatically notified when any new proposed policy changes are posted for comment.

OHCA values consultation with tribal governments and will provide your representatives a reasonable amount of time to respond to this notification. If you have any questions or comments about the proposed policy changes, please use the online comment system found on the [Policy Change Blog](#) and/or the [Native American Consultation Page](#).

Sincerely,

Dana Miller
Director, Tribal Government Relations



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Proposed Rule, State Plan, and Waiver Amendments

Please note, the 2022 meeting dates for MAC and Board are tentative and subject to change. The MAC and Board will not vote on their future 2022 meeting dates until their respective November 2021 meetings. Additionally, unless otherwise identified as an emergency rule, all rules will be going through the permanent rulemaking process.

OHS ADvantage Waiver Services and State Plan Personal Care Services - The proposed revisions will add language to establish guidelines and criteria regarding how an ADvantage member and/or provider are to report critical and non-critical incidents. Additional revisions will align policy with the recently approved 1915(c) ADvantage waiver renewal and current State Plan personal care services authority. Finally, policy changes will reflect current business practices and correct grammatical errors.

Proposed Rule Timeline:

60-day Tribal Consultation Period: October 19, 2021 – December 18, 2021

Public Comment Period: December 15, 2021 – January 18, 2022

Medical Advisory Committee: January 13, 2022

OHCA Board Meeting: January 19, 2022

Proposed Effective Date: September 2022

Timely Filing Policy Clean Up – Policy will be revised to reflect a six (6) month, rather than a twelve (12) month, timely filing limit in a section of policy which describes the process when an individual, due to an appeal decision, is determined retroactively eligible for RSDI disability or SSI. The six (6) months matches the Agency’s timely filing standard throughout other sections of policy.

Proposed Rule Timeline:

60-day Tribal Consultation Period: October 19, 2021 – December 18, 2021

Public Comment Period: December 15, 2021 – January 18, 2022

Medical Advisory Committee: January 13, 2022

OHCA Board Meeting: January 19, 2022

Proposed Effective Date: September 2022



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Private Ambulance Service Provider Access Payment Program — House Bill 2950 (HB 2950) mandates that OHCA establish federal and state authority to create and enforce an Ambulance Service Provider Access Payment Program to promote access to quality emergency and non-emergency transports for Medicaid members. The program will assess a fee to privately owned ambulance service providers licensed in Oklahoma to supplement appropriations and support ambulance service provider reimbursement. The Agency will seek CMS approval of a state plan amendment (SPA) and promulgate Agency rules to establish the program's provider fee calculation, provider exemptions, provider notification requirements, payment schedules, penalties, and appeals requirements.

Proposed Emergency Rule Timeline:

60-day Tribal Consultation Period: October 19, 2021 – December 18, 2021

Public Comment Period: November 2, 2021 – November 17, 2021

Medical Advisory Committee: January 13, 2022

OHCA Board Meeting: January 19, 2022

Proposed Effective Date: Contingent upon governor's approval

*Rule dates could change based on waiting to receive CMS approval for the SPA

Proposed SPA Timeline:

60-day Tribal Consultation Period: October 19, 2021 – December 18, 2021

Public Comment Period*: November 2, 2021 – December 2, 2021

Requested Effective Date: January 1, 2022

*Subject to change

Eliminate Community Based Extended (CBE) and Community Based Transitional (CBT) Levels of Care — The proposed revisions will eliminate CBE and CBT levels of care. These facilities contract with the OHCA as a type of Psychiatric Residential Treatment Facility (PRTF); however, there is only one contracted CBE facility and zero CBT facilities. The contracted CBE facility will transition to a standard PRTF with the corresponding rate. Other revisions will reorganize policy for clarity and correct grammatical errors.

Proposed SPA Timeline:

60-day Tribal Consultation Period: October 19, 2021 – December 18, 2021

Public Comment Period*: December 15, 2021 – January 18, 2022

Requested Effective Date: September 1, 2022



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Proposed Rule Timeline:

60-day Tribal Consultation Period: October 19, 2021 – December 18, 2021

Public Comment Period: December 15, 2021 – January 18, 2022

Medical Advisory Committee: January 13, 2022

OHCA Board Meeting: January 19, 2022

Proposed Effective Date: September 2022

Applied Behavior Analysis (ABA) Revisions — The proposed revisions will establish new documentation and signature requirements to ensure accuracy and completeness in clinical documentation as well as better individualized treatment plans for members. Additionally, the proposed changes will clarify the conditions under which concurrent billing codes can be used for the treatment of members.

Proposed Rule Timeline:

60-day Tribal Consultation Period: October 19, 2021 – December 18, 2021

Public Comment Period: December 15, 2021 – January 18, 2022

Medical Advisory Committee: January 13, 2022

OHCA Board Meeting: January 19, 2022

Proposed Effective Date: September 2022

Diabetes Prevention Program (DPP)— The proposed revisions will establish coverage, provider qualifications, and reimbursement of DPP services. DPP is an evidence-based lifestyle change intervention developed by the Centers for Disease Control and Prevention (CDC) to reduce the risk of adults with prediabetes progressing to Type 2 diabetes. DPP services will be provided in-person or via telehealth/virtually over the course of one year.

Proposed SPA Timeline:

60-day Tribal Consultation Period: October 19, 2021 – December 18, 2021

Public Comment Period*: December 15, 2021 – January 18, 2022

Requested Effective Date: September 1, 2022

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Proposed Rule Timeline:

60-day Tribal Consultation Period: October 19, 2021 – December 18, 2021

Public Comment Period: December 15, 2021 – January 18, 2022

Medical Advisory Committee: January 13, 2022

OHCA Board Meeting: January 19, 2022

Proposed Effective Date: September 2022

Improve 340B Shared Savings Methodology — The proposed revisions will modify existing rules and the State Plan to improve the identification of 340B drugs and orphan drug purchases. These revisions will require providers to bill the Agency with a procedure code modifier, on outpatient and hospital claims, that will identify a 340B drug from an orphan drug. Additional revisions will adjust the methodology by which Medicare crossover claims are included on drug rebate invoices to 340B providers.

Proposed SPA Timeline:

60-day Tribal Consultation Period: October 19, 2021 – December 18, 2021

Public Comment Period*: November 2, 2021 – December 2, 2021

Requested Effective Date: September 1, 2022

**Subject to change*

Proposed Rule Timeline:

60-day Tribal Consultation Period: October 19, 2021 – December 18, 2021

Public Comment Period: December 15, 2021 – January 18, 2022

Medical Advisory Committee: January 13, 2022

OHCA Board Meeting: January 19, 2022

Effective Date: September 2022



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Non-Emergency Transportation (NEMT) Driver Compliance - The proposed policy revisions will comply with recent changes to federal regulation which requires the State Plan to provide the Agency's assurance that any NEMT provider or individual driver will meet certain minimum requirements. The State Plan and Agency rules will ensure compliance with all driver requirements inclusive of the following minimum requirements deriving from the recent change: ensuring that drivers are not excluded from participation in any federal health care program, ensuring that drivers have valid driver's licenses, requiring providers to have a process in place to address violations of state law, and requiring providers to have in place a process to disclose to the state Medicaid agency the driving history of each individual driver employed inclusive of any traffic violations.

Proposed SPA Timeline:

60-day Tribal Consultation Period: October 19, 2021 – December 18, 2021

Public Comment Period*: November 2, 2021 – December 2, 2021

Requested Effective date: December 27, 2021

**Subject to change*

Proposed Emergency Rule Timeline:

60-day Tribal Consultation Period: October 19, 2021 – December 18, 2021

Public Comment Period: November 2, 2021 – November 17, 2021

Medical Advisory Committee: January 13, 2022

OHCA Board Meeting: January 19, 2022

Proposed Effective Date: Contingent upon governor's approval



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American Recovery Plan (ARP) Policy Revisions – The Agency will pursue time-limited state plan authority to establish payment for COVID-19 vaccine administration and testing, without cost sharing, for Title XIX individuals inclusive of those within limited benefit packages (i.e., family planning and individuals with tuberculosis) as well as expansion adults. In addition to ACIP-recommended vaccine administration provided by physicians and other licensed practitioners, reimbursement will be extended to pharmacies, pharmacists, pharmacists interns, and other qualified professionals, as per the Public Readiness and Emergency Preparedness (PREP) Act, to be reimbursed for the administration all ACIP-recommended vaccines, including the COVID-19 vaccines.

The Agency's payment rate for COVID-19 vaccine administration in cases where vaccine administration is separately reimbursable at a fee amount will follow the national Medicare rates, without geographic adjustment, in effect when the service is provided. Vaccines administered to American Indian/Alaskan Native (AI/AN) members by a qualified facility operated by the Indian Health Service, tribal government(s), or urban Indian health program (I/T/U) will be reimbursed the Office of Management and Budget (OMB) rate, per the current State Plan methodology. Reimbursement for COVID-19 diagnostic and screening testing as well as treatment and therapies will be reimbursed per the methodologies established in the State Plan.

Additionally, CMS-approval of a state plan amendment will be pursued to waive cost-sharing (copayments) for COVID-19 vaccine administration, testing and screening, and treatment, including specialized equipment and therapies (including preventive therapies and drugs), pharmacological, non-pharmacological, and treatments for a condition that may seriously complicate COVID-19 treatment, for individuals subject to cost-sharing of these services. Further, the State will attest that items and services are provided without amount, duration, or scope limitations that would otherwise apply when items and services are covered for purposes other than COVID-19-related treatment.



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Proposed SPA Timeline:

60-day Tribal Consultation Period: October 19, 2021 – December 18, 2021

Public Comment Period*: November 2, 2021 – December 2, 2021

Requested Effective Date: One day after the expiration of the PHE

**Subject to change*

The following policy revisions are associated with disaster-related requests that the Agency will move forward to permanent policies.

Post-Eligibility Treatment-of-Income (PETI) COVID-19 Disregard for Aged, Blind, and Disabled and/or Institutionalized Individuals – This item was presented at the September 7, 2021, tribal consultation meeting as a disaster-relief request. A non-disaster relief state plan amendment (SPA) will now be sought to extend the flexibility to 12-months post the end of the public health emergency (PHE). The Oklahoma Health Care

Authority (OHCA) will seek CMS-approval of a SPA to apply a less restrictive income methodology for a period of 12-months post the end of the PHE to disregard income and resources that would otherwise be counted when determining eligibility during the PETI process for aged, blind, and disabled and/or institutionalized members. The State will elect to disregard COVID-19-related financial assistance and the build-up of resources due to receiving pandemic-related income to protect those individuals from being at-risk of exceeding the resource limit for long-term care services and supports as well as home and community-based (HCBS) services. COVID-19-related financial assistance includes any payment made by the federal, state, local, or tribal government to relieve the adverse economic impacts of the COVID-19 such as stimulus checks, additional unemployment compensation, tax returns, applicable tax credits, hazard pay/premium/bonuses, etc.

Proposed SPA Timeline:

60-day Tribal Consultation Period: October 19, 2021 – December 18, 2021

Public Comment Period*: November 2, 2021 – December 2, 2021

Requested Effective Date: One day after the end of the PHE

**Subject to change*



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Independent Clinical Psychologist Services for Adults – The Oklahoma Health Care Authority (OHCA), in coordination with the Department of Mental Health & Substance Abuse Services (DMHSAS), submitted a disaster relief state plan amendment (SPA) to allow adults in the Medicaid program access to services provided by licensed clinical psychologists who can bill independently and are practicing within state scope of practice. Services provided by independently contracted clinical psychologists were previously a State Plan benefit only available to children. The OHCA will pursue a permanent SPA and an Alternative Benefit Plan (ABP) SPA to extend this flexibility and access upon the termination of the public health emergency (PHE).

Proposed Title XIX and ABP SPA Timeline:

60-day Tribal Consultation Period: October 19, 2021 – December 18, 2021

Public Comment Period*: November 2, 2021 – December 2, 2021

Requested Effective Date: One day after the expiration of the PHE

**Subject to change*

Proposed Emergency Rule Timeline:

60-day Tribal Consultation Period: October 19, 2021 – December 18, 2021

Public Comment Period: November 2-17

Medical Advisory Committee: January 13, 2022

OHCA Board Meeting: January 19, 2022

Proposed Effective date: Contingent upon governor's approval



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Disaster Relief HCBS Appendix K Amendment for DDS Waivers – Oklahoma Human Services (OHS) Developmental Disabilities Services (DDS) has requested temporary changes to the waivers.

OHS is requesting a retroactive add-on payment to be applied to all services in which face to face contact is essential for beneficiary health and safety for the time-period beginning January 1, 2021, and ending September 30, 2021, and will not exceed 20% of the provider's current rate. The proposed rate increase seeks to temporarily provide additional compensation to providers who have experienced issues causing non-budgeted overtime costs, increased costs for personal protective equipment and a tightening labor market due to the national PHE.

Additional DDS is requesting to extend the maximum age of the medical report required for the annual level of care review for waiver recipients from 2 years to 3 years. These changes are necessary to ensure members maintain waiver eligibility and access to supports to maintain health and safety; access to the community; opportunities to participate in community activities; and allow DHS to continue to empower and support Oklahomans with developmental disabilities. This change will apply to waiver recipients on the Medicaid In-Home Supports Waiver for Adults, In-Home Supports Waiver for Children, Homeward Bound Waiver and Community Waiver.

Disaster Relief HCBS Appendix K Amendment for ADvantage Waiver – Oklahoma Human

Services (OHS) is requesting a retroactive add-on payment to be applied to the ADvantage waiver for services in which face to face contact is essential for beneficiary health and safety for the time-period beginning January 1, 2021 and ending September 30, 2021. The payment will not exceed 20% of the provider's current rate. The proposed rate increase seeks to temporarily provide additional compensation to providers who have experienced issues causing non-budgeted overtime costs, increased costs for personal protective equipment and a tightening labor market due to the national PHE.

OHS is also requesting Remote Supports services, which involves monitoring of an ADvantage waiver member, allowing for live, two-way communication with them in their residence or employment site by remote staff. Remote Supports services are intended to promote a member's independence. Services are included in the member's person-centered service plan and arrangements for this service are made through the member's case manager.



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21-26 Afghan Refugees & Medicaid Eligibility— OHCA will revise rules to include eligibility requirements for Afghan refugees, inclusive of Afghan nationals granted parole, to comply with recent changes in federal regulation.

Tribal consultation period (14-day expedited): Oct. 20, 2021 – Nov. 3, 2021
Rules public comment period: Nov. 2, 2021 – Nov. 17, 2021
Medical Advisory Committee: Nov. 4, 2022
OHCA Board meeting: Nov. 17, 2022

Program of All-inclusive Care for the Elderly (PACE) Capitation Payment Rate Methodology – A State Plan amendment (SPA) will be submitted to CMS to revise the current methodology used to calculate the capitation rate payment for PACE organizations. The SPA will remove the Medicare Economic Index (MEI) adjustment from the rate methodology as the PACE capitation rate is based on the established upper payment limit (UPL), which is reviewed annually, and adjusted as needed without regard to the MEI.

Proposed Title XIX SPA Timeline:

60-day Tribal Consultation Period: October 19, 2021 – December 18, 2021

Public Comment Period*: November 2, 2021 – December 2, 2021

Requested Effective Date: October 1, 2021

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