

OKLAHOMA HEALTH CARE AUTHORITY  
REGULARLY SCHEDULED BOARD MEETING  
November 12, 2009  
Oklahoma Health Care Authority  
4545 N. Lincoln Blvd., Suite 124  
Oklahoma City, OK  
1:00 PM  
**A G E N D A**

**Item to be presented by Lyle Roggow, Chairman**

1. Call To Order/Determination of quorum - Lyle Roggow, Chairman
2. Action Item - Approval of October 8, 2009 Board Minutes

**Item to be presented by Mike Fogarty, Chief Executive Officer**

3. Discussion Item - Presentation of All Star Employees for the following months:  
  
August, 2009 - Maria Arroyo, Care Management, presented by Cheryl Moore  
September, 2009 - Rene Davis, Care Management, presented by Cheryl Moore

**Item to be presented by Mike Fogarty, Chief Executive Officer**

4. Discussion Item - Chief Executive Officer's Report
  - a) Financial Update - Carrie Evans
  - b) Medicaid Director's Update - Lynn Mitchell, M.D.

**Item to be presented by Carrie Evans**

5. Discussion Item - State Fiscal Year 2010-2011 Budget Projections; Impact on OHCA's Budget

**Item to be presented by Chairman Roggow**

6. Discussion Item - Reports to the Board by Board Committees  
  
Audit/Finance Committee - Member Miller  
Rules Committee - Member Langenkamp

**Item to be presented by Nancy Nesser, PharmD. JD, Pharmacy Director**

7. Action Item - Consideration and Vote Regarding Recommendations Made by the Drug Utilization Review Board Under 63 Oklahoma Statutes §5030.3.
  - a) Recommendation Regarding Conflicts of Interest Panel Concerning Recommendations of the Drug Utilization Review Board, Howard Pallotta, General Counsel

Item to be presented by Nancy Nesser, PharmD. JD, Pharmacy Director  
(continued)

- b) Consideration and Vote to add Fibromyalgia Treatment Products to the product-based prior authorization program under Oklahoma Administrative Code 317: 30-5-77.3.

Item to be presented by Cindy Roberts, Director of Program Integrity and Planning

- 8. Action Item - Consideration and Vote of agency recommended rulemaking pursuant to Article I of the Administrative Procedures Act
  - A) Announcement of Conflicts of Interest Panel Recommendation. Howard Pallotta, Director of Legal Services
  - B) Consideration and Vote upon a Declaration of a Compelling Public Interest for the promulgation of all *Emergency Rules* in accordance with 75 Okla. Stat. §253.
  - C) Consideration and Vote upon promulgation of Emergency rules as follows:
    - 8C-1. ADDING a new agency rule at OAC 317:30-3-61 to standardize the operation of all self directed service programs implemented through the SoonerCare program. The rule sets forth minimum requirements that all self directed service programs must adhere to. Self direction is a method of service delivery that allows members to determine what services and supports they need to live successfully in a home and community based setting.  
**(Reference APA WF # 09-04)**
    - 8C-2. ADDING a new agency rule at OAC 317:30-5-211.18 regarding durable medical equipment (DME) to establish a policy of ownership for all purchased DME, prosthetics, orthotics, and supplies. This rule allows all DME purchased by SoonerCare to remain the property of OHCA to be used for the benefit of the requesting member until it is no longer medically necessary. This is the first rule in complying with Oklahoma state law (56 O.S. 1011.11) mandating OHCA to promulgate rules and establish procedures necessary to implement a DME retrieval program.  
**(Reference APA WF # 09-35)**
    - 8C-3. ADDING a new agency rule OAC 317:30-5-210.1. and 30-5-210. AMENDING agency rules at OAC 317:30-5-211.1, 30-5-211.13, 30-5-211.14, and 30-5-211.16  
REVOKING agency rules at OAC 317:30-5-211.8 and 30-5-212.  
These rule changes alter durable medical equipment (DME) regulations to provide further clarification of services available to adults and the additional services available to children. These revisions will further align policy with reimbursement practices and help alleviate confusion to the provider community. Revisions include specifying general coverage for adults, providing definition and clarification of adult and

children coverage of prosthetics and orthotics, specifying general coverage for children, and general policy cleanup as it relates to these sections.

**(Reference APA WF # 09-42)**

8C-4. ADDING a new rule at OAC 317:40-9-1 to allow SoonerCare members receiving services through the In-Home Supports Waivers the option to self-direct their services. Self-direction provides the opportunity for members to exercise choice and control in accessing and managing specific waiver services and supports in accordance with their needs and personal preferences. The policy covers operation of the program, including agency oversight, budgeting, member eligibility, member responsibility, and the use of a fiscal agent.

**(Reference APA WF # 09-48)**

8C-5. ADDING a new rule at OAC 317:30-5-137.1 and 30-5-137.2 AMENDING at OAC 317:30-5-137 REVOKING at OAC 30-5-138, 30-5-139.

These rule changes alter bariatric surgery rules to re-order the prior authorization process in policy and provide further clarification of the prior authorization process. This amendment effectively rearranges policy to present member candidacy guidelines prior to presenting coverage guidelines. This will facilitate the current prior authorization process and encourage providers to request a member candidacy prior authorization before requesting the prior authorization for the surgery. These revisions are not changing the prior authorization process, only reinforcing the current process.

**(Reference APA WF # 09-49)**

D) Consideration and Vote of Non-Administrative Procedures Act Rule Change

8D-1. ADDING a new rule at OHCA 2-25-11 to strengthen compliance with the Oklahoma Ethics Commission rules and statutes concerning ethics and conflicts of interests. These rules provide direction for agency employees and supervisors regarding other employment outside of the agency, including other employment with an agency contractor or medical provider. Rules necessitate a conflict review in any instance that an agency employee is employed with an agency contractor or medical provider. Such reviews may restrict employees from actions involving prior authorization approvals, rule-making and/or rate-setting requests and/or decisions.

**(Reference APA WF # 09-33)**

**Item to be presented by Chairman Roggow**

9. Discussion Item - Proposed Executive Session as Recommended by the Director of Legal Services and Authorized by the Open Meetings Act, 25 Okla. Stat. §307(B)(1),(4)&(7)

**Status of Pending Suits and Claims**

- |                           |                              |
|---------------------------|------------------------------|
| 1. Woodlawn Manor v. OHCA | CJ-04-8834 (Oklahoma County) |
| 2. Covalt v. OHCA         | CJ-08-85 (Grant County)      |

Status of Pending Suits and Claims (continued)

- |   |                              |
|---|------------------------------|
| 3. Wright v. OHCA                       | CJ-09-3924 (Oklahoma County) |
| 4. Price v. Wolford                     | 09-6139 (Tenth Circuit)      |
| 5. Moss v. Wittmer                      | 104,607 (Okla. S.Ct.)        |
| 6. OHCA v. Henry, et al.                | 107,705 (Okla. S.Ct.)        |
| 7. Cole and Russell v. OHCA             | CJ-07-025 (Dewey County)     |
| 8. Schnoebelen v. OHCA                  | CJ-08-007 (Woodward County)  |
| 9. McAlary v. OHCA                      | CJ-08-021 (Dewey County)     |
| 10. St. John v. OHCA                    | CJ-08-043 (Major County)     |
| 11. Morris v. OHCA                      | CJ-08-071 (Dewey County)     |
| 12. Daily v. OHCA                       | CJ-08-085 (Dewey County)     |
| 13. Moore v. OHCA                       | CJ-08-088 (Dewey County)     |
| 14. Decker (Lightning Creek)<br>v. OHCA | CJ-08-105 (Major County)     |
| 15. Stevens v. OHCA                     | CJ-08-151 (Woodward County)  |
| 16. Hedrick v. OHCA                     | CJ-09-026 (Dewey County)     |
| 17. McClellan v. OHCA                   | CJ-09-081 (Major County)     |
| 18. Rutledge v. OHCA                    | CJ-09-155 (Woodward County)  |
10. New Business
11. Adjournment

**Next Board Meeting  
December 10, 2009  
College of Osteopathic Medicine  
Tulsa, OK**