

MINUTES OF A REGULARLY SCHEDULED BOARD MEETING
OF THE OKLAHOMA HEALTH CARE AUTHORITY BOARD
Held at Oklahoma Health Care Authority
Oklahoma City, Oklahoma
November 8, 2007
1:00PM

Manner and Time of Notice of Meeting: A public notice was placed on the front door of the Oklahoma Health Care Authority on November 6, 2007.

Pursuant to a roll call of the members, a quorum was declared to be present, and Member McFall called the meeting to order at 1:04pm.

BOARD MEMBERS PRESENT: Member Armstrong, Member Miller,
Member Langenkamp, Governor
Anoatubby and Member McFall

ABSENT: Vice-Chairman Hoffman
Chairman Roggow

OTHERS PRESENT Bill Lance, Chickasaw Nation
Anne Roberts, OICA
Becky Moore ON ACP
Brent Wilborn, OPCA
Steven Feist, Logisticare
Ron Graham, OUCOP
Dan Arthell, CSC-Tulsa

**DISCUSSION AND POSSIBLE VOTE ON APPROVAL OF BOARD MINUTES OF THE
REGULARLY SCHEDULED BOARD MEETING HELD OCTOBER 11, 2007**

The Board routinely reviews and approves a synopsis of all its meetings. The full-length recordings of the meetings of the Board are retained at the Board Offices and may be reviewed upon written request.

MOTION: Member Langenkamp moved for
approval of the October 11, 2007
board minutes as presented. Member
Armstrong seconded.

FOR THE MOTION: Member Armstrong, Member Miller,
Member Langenkamp, Governor
Anoatubby, and Member McFall

ABSENT: Vice-Chairman Hoffman
Chairman Roggow

ITEM 3/PRESENTATION OF EMPLOYEE OF THE QUARTER

Mike Fogarty, CEO

Mr. Fogarty presented Ms. Paula Lane of the SURS Unit with notable mentionables.

FINANCIAL UPDATE

Anne Garcia

Revenues for OHCA through September, accounting for receivables, were **\$779,836,778** or **.8 % under** budget. Expenditures for OHCA, accounting for encumbrances, were **\$714,601,293** or **1.8% under** budget. The state dollar budget variance through September is **\$6,538,647 positive**. In addition to the SFY08 variance, the agency has **\$10,493,719** in prior year carryover. These funds are being held in reserve for the FY09 budget.

The budget variance is primarily attributable to the following (in millions):

Expenditures:	
Medicaid Program Variance	2.4
Administration	1.2
Revenues:	
Taxes and Fees	.9
Drug Rebate	.9
Overpayments/Settlements	1.1
Total FY 07 Variance	\$ 6.5

MEDICAID DIRECTOR'S UPDATE

Becky Pasternik-Ikard

Ms. Ikard stated that once again our enrollment numbers remain stable with a total of 613,188 for September which is about 400 fewer individuals than reported for August (613,566). For the Insure Oklahoma / O-EPIC program data for November which indicates a total enrollment of **3,782** in the employer sponsored program which reflects **565** new enrollees. Please note that this 565 includes 77 persons enrolled under the increased FPL standard from 185 to 200% effective November 1, 2007. Ms. Ikard reported that since last month an additional **123** businesses have joined Insure Oklahoma / O-EPIC for a total of **1,385** businesses enrolled. She stated that the Insure Oklahoma Individual Plan has experienced modest growth and for Nov has 1,127 enrollees. Total enrollment for Insure Oklahoma is 4909 for November compared to 4349 in October. Insure Oklahoma statewide marketing campaign was successfully launched October 15, 2007 and preliminary results indicate an 80% increase in call volume to the Insure Oklahoma call center and a significant increase in calls from insurance agents.

Mr. Fogarty stated that last week he and Governor Anoatubby attended the Oklahoma Academy for State Goals Meeting at Quartz Mountain. He said that the meeting was very structured and a great forum where state, local, private entities, and sovereign tribes relate to each other. Mr. Fogarty then commented on the upcoming NASMD next week

regarding SCHIP funding. He stated that mid June of 2008 Oklahoma City will be hosting the NASMD Conference.

Reports to the Board by Board Committees

Mr. Miller reported that the Finance Committee met with Ms. Garcia and discussed how well the finances for the last 2 years has been. We also spent time with regard to SCHIP expenses which if not reauthorized will run out probably in January 2008. Mr. Miller stated that Audit Committee met with Ms. Roberts and discussed the arrival of the Federal Auditors on December 3. The State Auditors are gearing up for the Single State Audit and we discussed the first quarter audit activity report. We also discussed the results of the PERM error rates. We have notified our congressional delegation that we have concerns of regarding this report. Mr. McFall stated that if SCHIP is not reauthorized it will cost the state an additional \$8 million.

ITEM 6B/CONSIDERATION AND VOTE UPON TO ADD THE DRUG LIDODERM® TO THE SCOPE/UTILIZATION-BASED PRIOR AUTHORIZATION PROGRAM UNDER OAC 317:30-5-77.2(E)

Nancy Nesser, J.D., D.Ph., Pharmacy Director

Mr. Pallotta noted that the Conflicts of Interest Panel met and found no conflicts with Items 6, 7A, and 7B.

Dr. Nesser stated that the DUR Board recommends prior authorization of Lidoderm® with the following criteria:

1. FDA approved diagnosis.
2. Provide documented treatment attempts at recommended dosing or contraindication to at least one agent from two of the following drug classes:
 - a. Tricyclic antidepressants
 - b. Anticonvulsants
 - c. Topical or Oral Analgesics
3. Quantity limit of no more than 3 patches per day with a maximum of 90 patches in a month.

MOTION: Governor Anoatubby moved for approval of Item 6 as presented. Member Langenkamp seconded.

FOR THE MOTION: Member Armstrong, Member Miller, Member Langenkamp, Governor Anoatubby, and Member McFall

ABSENT: Vice-Chairman Hoffman
Chairman Roggow

ITEM 7A/CONSIDERATION AND VOTE UPON DECLARATION OF EMERGENCY RULES A-C AS LISTED ON RULES AGENDA

Cindy Roberts, Director of Program Integrity and Planning

Ms. Roberts the following rules for consideration of declaration of emergency:

I. Items subject to the Administrative Procedures Act (Emergency).

A. CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

Subchapter 5. Individual Providers and Specialties
OAC 317:30-5-22. [AMENDED]
(Reference APA WF # 07-51)

FINDING OF EMERGENCY: The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions which will allow SoonerCare providers to bill and receive payment for an evaluation and management (E&M) service and an amniocentesis on the same date of service. Amniocentesis is a medical procedure used in prenatal diagnosis of genetic risk factors. By allowing both services on the same day, pregnant SoonerCare members, whose fetus may be at risk for genetic defects, are more likely to use this diagnostic tool than if they must return on another day for this procedure. Rule revisions will allow the early detection of possible risks and allow SoonerCare members to pursue potential interventions that may exist.

B. CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

Subchapter 5. Eligibility and Countable Income
Part 5. Countable Income and Resources
OAC 317:35-5-41.9. [AMENDED]
OAC 317:35-5-42. [AMENDED]
Subchapter 9. ICF/MR, HCBW/MR, and Individuals Age 65 or Older in Mental Health Hospitals
OAC 317:35-9-15. [AMENDED]
Part 7. Determination of Financial Eligibility
OAC 317:35-9-67. [AMENDED]
Subchapter 17. ADvantage Waiver Services
OAC 317:35-17-10. [AMENDED]
Subchapter 19. Nursing Facility Services
OAC 317:35-19-4. [AMENDED]
OAC 317:35-19-20. [AMENDED]
(Reference APA WF # 07-57)

FINDING OF EMERGENCY: The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rules to comply with Public Laws 109-171, 104-204, 108-183, and 106-419. Section 1955.3 of Title 63 of Oklahoma Statutes requires the Oklahoma Health Care Authority (OHCA) to administer the Oklahoma Long-Term Care Partnership Program upon repeal of the restrictions to asset protection contained in the Omnibus Budget Reconciliation Act of 1993. Public Law 109-171, known as the Deficit Reduction Act of 2005, repealed the restrictions to asset protection and authorized states to implement long-term care partnership programs. Public Laws 104-204, 108-183, and 106-419 prohibit monthly allowances paid to children of Vietnam veterans and certain other veterans for any disability resulting from spina

bifida or other certain birth defects from being considered as income or resources in determining eligibility for, or the amount of benefits under, any federally assisted program. Without these revisions, OHCA will not be in compliance with federal regulations. Individuals who would otherwise qualify for SoonerCare services might not qualify if policy is not in place to specifically address these allowable income disregards.

C. CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

OAC 317:30-5-2. [AMENDED]

Part 3. Hospitals

OAC 317:30-5-44. [AMENDED]

(Reference APA WF # 07-65)

FINDING OF EMERGENCY: The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to eliminate the requirement that an Explanation of Medicare Benefits (EOMB) be attached to a cross-over claim before it can be processed. The current OHCA process is a manual process and administratively burdensome. Eliminating this requirement will enable OHCA to process claims via the internet and expedite the processing of these claims.

MOTION:

Member Miller moved for declaration of emergency for Rules A, B, and C as presented. Member Langenkamp seconded.

FOR THE MOTION:

Member Armstrong, Member Miller, Member Langenkamp, Governor Anoatubby, and Member McFall

ABSENT:

Vice-Chairman Hoffman
Chairman Roggow

ITEM 7B/CONSIDERATION AND VOTE UPON DECLARATION OF SUBSTANTIVE RULES A-C AS LISTED ON RULES AGENDA

Cindy Roberts, Director of Program Integrity and Planning

Ms. Roberts the following rules for approval as presented:

A. CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

Subchapter 5. Individual Providers and Specialties

OAC 317:30-5-22. [AMENDED]

(Reference APA WF # 07-51)

SUMMARY: Agency rules are revised to allow SoonerCare providers to bill and receive payment for an evaluation and management (E&M) service and an amniocentesis on the same date of service. Amniocentesis is a diagnostic test that detects chromosome abnormalities, neural tube defects and genetic disorders with high levels of accuracy (98-99%). Down syndrome or Trisomy 21 is the most common chromosome abnormality. Genetic disorders include disorders like cystic fibrosis. The most common neural

tube defect is spina bifida. Current rules do not allow a SoonerCare provider to provide an E&M service and an amniocentesis on the same day. By allowing both services on the same day, pregnant SoonerCare members, whose fetus may be at risk for genetic defects, are more likely to use this diagnostic tool than if they must return on another day for this procedure. Performing the tests and confirming the diagnosis provides members with certain opportunities. Members may pursue potential interventions (i.e. fetal surgery for spina bifida), planning for a child with special needs and/or identifying support groups and resources. Rule revisions are needed to allow early detection and improve member access to this essential service.

B. CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

Subchapter 5. Eligibility and Countable Income

Part 5. Countable Income and Resources

OAC 317:35-5-41.9. [AMENDED]

OAC 317:35-5-42. [AMENDED]

Subchapter 9. ICF/MR, HCBW/MR, and Individuals Age 65 or Older in Mental Health Hospitals

OAC 317:35-9-15. [AMENDED]

Part 7. Determination of Financial Eligibility

OAC 317:35-9-67. [AMENDED]

Subchapter 17. ADvantage Waiver Services

OAC 317:35-17-10. [AMENDED]

Subchapter 19. Nursing Facility Services

OAC 317:35-19-4. [AMENDED]

OAC 317:35-19-20. [AMENDED]

(Reference APA WF # 07-57)

SUMMARY: Agency rules are revised to comply with Public Law 109-171, known as the Deficit Reduction Act of 2005 (DRA). Section 6021 of the DRA authorizes states to implement long-term care partnership program. Individuals who purchase a qualified long-term care partnership insurance policy are subject to special rules relating to eligibility for long-term care services provided by SoonerCare. These rules allow assets equal to the amount of benefits received from a qualified long-term care partnership insurance policy to be disregarded for the purposes of determining eligibility for long-term care services provided by SoonerCare. Individuals without a long-term care partnership insurance policy are required to spend-down their assets in order to qualify for long-term care services provided by SoonerCare. Agency rules are also revised to comply with Public Laws 104-204, 108-183, and 106-419. Public Law 104-204 requires payments made to certain Vietnam veterans' children with spina bifida to be disregarded for purposes of SoonerCare eligibility. Public Law 108-183 requires payments made to certain Korea service veterans' children with spina bifida to be disregarded for purposes of SoonerCare eligibility. Public Law 106-419 requires payments made to children of women Vietnam veterans who suffer from certain birth defects to be disregarded for purposes of SoonerCare eligibility. Proposed revisions are required to comply with state and federal regulations.

C. **CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**

Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

OAC 317:30-5-2. [AMENDED]

Part 3. Hospitals

OAC 317:30-5-44. [AMENDED]

(Reference APA WF # 07-65)

SUMMARY: Rules are being revised to eliminate the requirement that an Explanation of Medicare Benefits (EOMB) be attached to a cross-over claim before it can be processed. Cross-over claims are claims filed with Medicare Part B that in most cases, automatically cross over to OHCA. However, if it does not, a claim for coinsurance and deductible must be filed with OHCA within 90 days of the date of the Medicare payment or within one year of the date of service in order to be considered timely filed. Current policy requires that the EOMB must be attached to the claim to be considered for payment. This process is administratively burdensome and adversely impacts the providers.

MOTION: Member Armstrong moved for approval of Rules A, B, and C as presented. Governor Anoatubby seconded.

FOR THE MOTION: Member Armstrong, Member Miller, Member Langenkamp, Governor Anoatubby, and Member McFall

ABSENT: Vice-Chairman Hoffman
Chairman Roggow

ITEM 8/DISCUSSION ITEM - PROPOSED EXECUTIVE SESSION AS RECOMMENDED BY THE DIRECTOR OF LEGAL SERVICES AND AUTHORIZED BY THE OPEN MEETINGS ACT, 25 OKLA. STATE.§307(B)(1),(4)&(7)

Howard Pallotta, Director of Legal Services

MOTION: Member Miller moved for an executive session. Member Langenkamp seconded.

FOR THE MOTION: Member Armstrong, Member Miller, Member Langenkamp, Governor Anoatubby, and Member McFall

ABSENT: Vice-Chairman Hoffman
Chairman Roggow

ITEM 9/ACTION ITEM - CONSIDERATION AND VOTE UPON BOARD MEETING DATES, TIMES, AND PLACES OF THE OKLAHOMA HEALTH CARE AUTHORITY FOR CALENDAR YEAR 2008

MOTION: Governor Anoatubby moved for approval of the 2008 Board Calendar as presented. Member Armstrong seconded.

FOR THE MOTION:

Member Armstrong, Member Miller,
Member Langenkamp, Governor
Anoatubby, and Member McFall

ABSENT:

Vice-Chairman Hoffman
Chairman Roggow

NEW BUSINESS

None.

ADJOURNMENT

MOTION:

Governor Anoatubby moved for
adjournment. Member Langenkamp
seconded.

FOR THE MOTION:

Member Armstrong, Member Miller,
Member Langenkamp, Governor
Anoatubby, and Member McFall

ABSENT:

Vice-Chairman Hoffman
Chairman Roggow