

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 proposal was presented at the Tribal Consultation held on June 6, 2023, and the Medical Advisory Committee held on November 2, 2023. Additionally, the proposed policy will be presented at a Public Hearing scheduled for January 8, 2024, and are scheduled to be presented as Permanent Rules to the OHCA Board of Directors on January 17, 2024.

Reference: APA WF # 23-16A

SUMMARY: Lower Minimum Age for Enrollment into ADvantage Waiver – The proposed revisions update the ADvantage 1915(c) Home and Community Based Waiver Services (HCBS) Program rules to lower the minimum enrollment age from 21 to 19, pursuant to the ADvantage Waiver amendment recently approved by CMS.

LEGAL AUTHORITY

The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; the Oklahoma Health Care Authority Board; and Section 1915(c) of the Social Security Act

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA OKLAHOMA HEALTH CARE AUTHORITY

SUBJECT: Rule Impact Statement
APA WF # 23-16A

A. Brief description of the purpose of the rule:

The proposed revisions update the ADvantage 1915(c) Home and Community Based Services (HCBS) Waiver Program rules to lower the minimum enrollment age from 21 to 19, pursuant to the ADvantage Waiver amendment recently approved by CMS.

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 affect SoonerCare applicants who are age 19 to 21 and who meet the eligibility and enrollment requirements for ADvantage Waiver. 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 will benefit SoonerCare applicants who are age 19 to 21 and who meet the eligibility and enrollment requirements for ADvantage Waiver.

- 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 affect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency:

Since 2002, ADvantage has had only a total of 62 individuals enter the waiver at the age of 21, for a yearly average of about 3 individuals. Assuming all of them who needed services would have met the nursing facility level of care and enrolled in the waiver at age 19, the budget impact is minimal. (Information supplied by Oklahoma Human Services)

- 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 an economic impact on any political subdivision or require their cooperation in implementing or enforcing the rule changes.

- 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 agency does not anticipate that the proposed rule changes will have an adverse effect on small businesses.

- 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 are no other legal methods to achieve the purpose of the proposed rule. Measures included a formal public comment period and tribal consultation.

- 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 no adverse effect on the public health, safety or 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 and safety if the proposed rule is not passed.

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

Prepared date: May 30, 2023

Modified: November 21, 2023

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

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 3. GENERAL MEDICAL PROGRAM INFORMATION

317:30-3-41. Home and Community Based Services Waivers for persons with physical disabilities

(a) **ADvantage Waiver.** The ADvantage Waiver Program is a Medicaid Home and Community Based Services (HCBS) Waiver used to finance non-institutional long-term care services through Oklahoma's SoonerCare program for elderly and disabled individuals in specific waiver areas. To receive ADvantage Program services, individuals must meet the nursing facility level of care criteria, be age ~~65~~sixty-five (65) years or older, or age ~~21~~nineteen (19) or older if disabled. ADvantage Program members must be SoonerCare eligible and reside in the designated service area. The number of members in the ADvantage Waiver is limited.

(b) **Medically Fragile Waiver.** The Medically Fragile Waiver Program is a Medicaid Home and Community Based Services (HCBS) Waiver used to finance non-institutional long-term care services through Oklahoma's SoonerCare program for medically fragile individuals. To receive Medically Fragile Program services, individuals must be at least 19 years of age, be SoonerCare eligible, and meet the ~~OHCA~~Oklahoma Health Care Authority (OHCA) skilled nursing facility (SNF) or hospital level of care (LOC) criteria. Eligibility does not guarantee placement in the program as Waiver membership is limited.