

## 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:** March 3, 2023

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 July 5, 2022 Tribal Consultation. Additionally, this proposal was presented to the Medical Advisory Committee on September 8, 2022. Furthermore, this proposal will be presented at a Public Hearing scheduled for March 7, 2023. Finally, the proposed changes are scheduled to be presented as Permanent Rules to the OHCA Board of Directors on March 22, 2023.

**SUMMARY: Covering Former Foster Care Youth from Another State** — The proposed revisions will extend Medicaid coverage for youth ageing out of foster care.

### 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 P.L. 115-271 § 1002 (the SUPPORT Act)

### RULE IMPACT STATEMENT:

#### STATE OF OKLAHOMA OKLAHOMA HEALTH CARE AUTHORITY

SUBJECT: Rule Impact Statement  
APA WF # 22-17

A. Brief description of the purpose of the rule:

The proposed revisions will implement changes to comply with federal law by requiring SoonerCare to grant eligibility in the former foster care youth category to individuals who were enrolled in Medicaid when they aged out of foster care in another state on January 1, 2023, or later, and who now reside in Oklahoma. Prior to the federal law changes, SoonerCare was only required to grant eligibility in the former foster care youth category to individuals who were enrolled in Medicaid when they aged out of foster care in Oklahoma. **The aforementioned proposed rules were promulgated through the Emergency Rule process.**

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:

Former foster care youth who are enrolled in Medicaid and who age out of foster care in another state on or after January 1, 2023, and now reside in Oklahoma are most likely to be affected by the proposed rule. 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:

Former foster care youth who are enrolled in Medicaid and who age out of foster care in another state on or after January 1, 2023, and now reside in Oklahoma, until they turn 26 years old, will benefit from the proposed rule.

- 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:

The estimated total cost for SFY 2023 is \$187,650 – resulting in \$135,783.54 in federal share and \$51,866.46 in state share. The estimated total cost for SFY 2024 is \$375,300 – resulting in (\$252,802.08 in federal share and \$122,497.92 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 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 10, 2022

Modified date: December 28, 2022

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY  
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-  
ELIGIBILITY**

**SUBCHAPTER 5. ELIGIBILITY AND COUNTABLE INCOME**

**PART 1. DETERMINATION OF QUALIFYING CATEGORICAL RELATIONSHIP**

**317:35-5-2. Categorically related programs**

~~(a) In order to be eligible for SoonerCare, an individual must first meet the description of a member eligibility group. For individuals related to the aged, blind, or disabled groups, categorical relationship is established using the same definitions of age, disability and blindness as used by the Social Security Administration (SSA) in determining eligibility for Supplemental Security Income (SSI) or SSA benefits. If the individual is an SSA/SSI recipient in current payment status (including presumptive eligibility), a Temporary Assistance for Needy Families (TANF) recipient, an adoption assistance or kinship guardianship assistance recipient, or is under age nineteen (19), categorical relationship is automatically established. For individuals related to expansion adults the categorical relationship is established and defined by 42 Code of Federal Regulations (C.F.R.) § 435.119. Categorical relationship to the pregnancy group is established when the determination is made by medical evidence that the individual is or has been pregnant. Verification of pregnancy is only required if the individual's declaration that she is pregnant is not reasonably compatible with other information available to the agency. Pregnancy related services include all medical services provided within the scope of the program during the prenatal, delivery and postpartum periods for women in this pregnancy group; see Subchapter 22 of this Chapter for services for~~

~~unborn children covered under Title XXI. For an individual age nineteen (19) or over to be related to the parent and caretaker relative group, the individual must have a minor dependent child. For an individual to be related to the former foster care children group, the individual must not be eligible for the Title XIX pregnancy or parent or caretaker relative groups, must be aged nineteen (19) to twenty-six (26), and must have been receiving SoonerCare as a foster care child when he/she aged out of foster care in Oklahoma. There is no income or resource test for the former foster care children group. Categorical relationship to refugee services is established in accordance with OAC 317:35-5-25. Categorical relationship for the Breast and Cervical Cancer (BCC) treatment program is established in accordance with Subchapter 21 of this Chapter. Categorical relationship for the SoonerPlan family planning program is established in accordance with OAC 317:35-5-8. Categorical relationship for pregnancy related benefits covered under Title XXI is established in accordance with Subchapter 22 of the Chapter. Benefits for pregnancies covered under Title XXI medical services are provided within the scope of the program during the prenatal, delivery and postpartum care when included in the global delivery payment. To be eligible for SoonerCare benefits, an individual must be related to one (1) of the following eligibility groups and as defined above in this Section:~~

- ~~(1) Aged;~~
- ~~(2) Disabled;~~
- ~~(3) Blind;~~
- ~~(4) Pregnancy;~~
- ~~(5) Children, including newborns deemed eligible;~~
- ~~(6) Parents and caretaker relatives;~~
- ~~(7) Refugee;~~
- ~~(8) BCC treatment program;~~
- ~~(9) SoonerPlan family planning program;~~
- ~~(10) Benefits for pregnancies covered under Title XXI;~~
- ~~(11) Former foster care children; or~~
- ~~(12) Expansion adults.~~

~~(b) The Authority may provide SoonerCare to reasonable categories of individuals under age twenty-one (21).~~

~~(1) Individuals eligible for SoonerCare benefits include individuals between the ages of nineteen (19) and twenty-one (21):~~

~~(A) For whom a public agency is assuming full or partial financial responsibility who are in custody as reported by OKDHS and in foster homes, private institutions or public facilities; or~~

~~(B) In adoptions subsidized in full or in part by a public agency; or~~

~~(C) Individuals under age twenty-one (21) receiving active treatment as inpatients in public psychiatric facilities or programs if inpatient psychiatric services for individuals under age twenty-one (21) are provided under the State Plan and the individuals are supported in full or in part by a public agency; or~~

~~(2) Individuals eligible for SoonerCare benefits include individuals between the ages of eighteen (18) and twenty-one (21) if they are in custody as reported by OKDHS on their eighteenth (18<sup>th</sup>) birthday and living in an out-of-home placement.~~

~~(a) In order to be eligible for SoonerCare, an individual must first meet the description of a member eligibility group.~~

~~(1) For individuals related to the aged, blind, or disabled groups, categorical relationship is~~

established using the same definitions of age, disability, and blindness as used by the Social Security Administration (SSA) in determining eligibility for Supplemental Security Income (SSI) or SSA benefits.

(2) If the individual is a SSA/SSI recipient in current payment status (including presumptive eligibility), a Temporary Assistance for Needy Families (TANF) recipient, an adoption assistance or kinship guardianship assistance recipient, or is under age nineteen (19), categorical relationship is automatically established.

(3) For individuals related to expansion adults the categorical relationship is established and defined by 42 Code of Federal Regulations (C.F.R.) § 435.119.

(4) Categorical relationship to the pregnancy group is established when the determination is made by medical evidence that the individual is or has been pregnant. Verification of pregnancy is only required if the individual's declaration that she is pregnant is not reasonably compatible with other information available to the agency. Pregnancy-related services include all medical services provided within the scope of the program during the prenatal, delivery and postpartum periods for women in this pregnancy group; see Subchapter 22 of this Chapter for services for unborn children covered under Title XXI.

(5) For an individual age nineteen (19) or over to be related to the parent and caretaker relative group, the individual must have a minor dependent child.

(6) For an individual to be related to the former foster care children group, the individual must have been receiving Medicaid benefits as a foster care child in Oklahoma or another state when he/she attained the age of eighteen (18), or aged out of foster care, until he/she reaches the age of twenty-six (26). If the individual aged out of foster care in a state other than Oklahoma, the date of ageing out had to occur on January 1, 2023, or later, and the individual must now be residing in Oklahoma. There is no income or resource test for the former foster care children group.

(7) Categorical relationship to refugee services is established in accordance with OAC 317:35-5-25.

(8) Categorical relationship for the Breast and Cervical Cancer (BCC) treatment program is established in accordance with Subchapter 21 of this Chapter.

(9) Categorical relationship for the SoonerPlan family planning program is established in accordance with OAC 317:35-5-8.

(10) Categorical relationship for pregnancy related benefits covered under Title XXI is established in accordance with Subchapter 22 of the Chapter. Benefits for pregnancies covered under Title XXI medical services are provided within the scope of the program during the prenatal, delivery and postpartum care when included in the global delivery payment.

(b) To be eligible for SoonerCare benefits, an individual must be related to one (1) of the following eligibility groups and as defined above in this Section:

(1) Aged;

(2) Disabled;

(3) Blind;

(4) Pregnancy;

(5) Children, including newborns deemed eligible;

(6) Parents and caretaker relatives;

(7) Refugee;

(8) BCC treatment program;

(9) SoonerPlan family planning program;

(10) Benefits for pregnancies covered under Title XXI;

(11) Former foster care children; or

(12) Expansion adults.

(c) The Authority may provide SoonerCare to reasonable categories of individuals under age twenty-one (21).

(1) Individuals eligible for SoonerCare benefits include individuals between the ages of nineteen (19) and twenty-one (21):

(A) For whom a public agency is assuming full or partial financial responsibility who are in custody as reported by Oklahoma Human Services (OKDHS) and in foster homes, private institutions or public facilities; or

(B) In adoptions subsidized in full or in part by a public agency; or

(C) Individuals under age twenty-one (21) receiving active treatment as inpatients in public psychiatric facilities or programs if inpatient psychiatric services for individuals under age twenty-one (21) are provided under the State Plan and the individuals are supported in full or in part by a public agency; or

(2) Individuals eligible for SoonerCare benefits include individuals between the ages of eighteen (18) and twenty-one (21) if they are in custody as reported by OKDHS on their eighteenth (18<sup>th</sup>) birthday and living in an out-of-home placement.