

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 Permanent Rules. The proposed policy changes were presented at the January 3, 2023, Tribal Consultation. The proposed rule changes will be presented at a Public Hearing on March 7, 2023. Additionally, this proposal is scheduled to be presented to the Medical Advisory Committee on March 7, 2023, and the OHCA Board of Directors on March 15, 2023.

SUMMARY:

Developmental Disabilities Services (DDS) Policy Changes – The proposed revisions to the DDS policy will add and/or revoke language to reflect amendments made to Community and Homeward Bound waiver amendments and the IHSW-A and IHSW-C renewals. These amendments and renewals were recently approved by CMS and made effective July 1, 2022. Revisions will also correct formatting and grammatical errors, as well as align policy with current business practices.

LEGAL AUTHORITY:

The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; Section 162 and 1025.1 et seq. of Title 56 of the Oklahoma Statutes

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA OKLAHOMA HEALTH CARE AUTHORITY

SUBJECT: Rule Impact Statement
APA WF #22-24A

A. Brief description of the purpose of the rule:

The proposed revisions to the Oklahoma Human Services Developmental Disability Services will update coverage limitations for individual family training from \$5,500 to \$6,500 and group family training from \$5,500 to \$6,500 and revoke outdated documentation requirements language for Family Support services. Other revisions will add new language to outline criteria for respite care providers and homemaker services providers. Additionally, revisions will update and remove outdated language and definitions, remove obsolete references, revoke/combine sections to comply with Executive Order 2020-03, which requires state agencies to reduce unnecessary and outdated rules. Final revisions will correct formatting and grammatical errors, as well as align policy with current business practices.

- 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:

No classes of persons will be affected by the proposed rule.

- C. A description of the classes of persons who will benefit from the proposed rule:

Persons who will benefit from this proposed rule change will be DDS individual and group family training providers as the proposed rule will update and increase coverage limitations.

- 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 economic impact and there are no fee changes associated with the rule change for the above classes of persons or any political subdivision.

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

The proposed rule changes are budget neutral.

- 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 will not have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule.

- 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 proposed rule will not have an adverse effect on small businesses as provided by the Oklahoma Small Business Regulatory Flexibility Act.

- 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 is no less costly or non-regulatory method or less intrusive method for achieving the purpose of the proposed rule.

- 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 effect on the public health, safety, and 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, safety, or environment if the proposed rule changes are not implemented.

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

Prepared: July 31, 2023

RULE TEXT

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

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 41. FAMILY SUPPORT SERVICES

317:30-5-412. Description of services

Family support services include services identified in (1) through (6) of this section. Providers of any family support service must have an applicable SoonerCare Provider Agreement for Home and ~~Community-Based~~Community-Based Services (HCBS) Waiver Providers for persons with developmental disabilities.

(1) **Transportation services.** Transportation services are provided per Oklahoma Administrative Code (OAC) 317:40-5-103.

(2) **Assistive technology (AT) devices and services.** AT devices and services are provided per OAC 317:40-5-100.

(3) **Architectural modification.** Architectural modification services are provided per OAC 317:40-5-101.

(4) **Family training.**

(A) **Minimum qualifications.**

(i) Individual providers must have a Developmental Disabilities Services (DDS) Family Training application and training curriculum approved by DDS staff. Individual providers must hold a current licensure, certification, or a ~~Bachelor's Degree~~bachelor's degree in a human service field related to the approved training curriculum, or other ~~Bachelor's Degree~~bachelor's degree combined with a minimum of five 5 years' experience in the intellectual disabilities field. Only individuals named on the SoonerCare Provider Agreement to provide Family Training services may provide service to members.

(ii) Agency or business providers must have a (DDS) Family Training application and training curriculum approved by DDS staff. Agency or business provider training staff must hold a current licensure, certification, or a ~~Bachelor's Degree~~ bachelor's degree in a human service field related to the approved training curriculum or other ~~Bachelor's Degree~~ bachelor's degree combined with a minimum of five (5) years experience in the intellectual disabilities field. The credentials of new training staff hired by an approved DDS HCBS Family Training agency or business provider must be submitted to and approved by the DDS programs manager for Family Training prior to new staff training members or members' families.

(B) Description of services. Family Training services include instruction in skills and knowledge pertaining to the support and assistance of members. Services are:

- (i) ~~intended~~ Intended to allow families to become more proficient in meeting the needs of members who are eligible;
- (ii) ~~provided~~ Provided in any community setting;
- (iii) ~~provided~~ Provided in either group, consisting of two (2) to ~~15~~ fifteen (15) persons, or individual formats; ~~and~~
- (iv) ~~for~~ For members served through DDS HCBS Waivers and their families. For the purpose of this service, family is defined as any person who lives with, or provides care to a member served on the Waiver;
- (v) ~~included~~ Included in the member's Individual Plan (Plan) and arranged through the member's case manager; and
- (vi) ~~intended~~ Intended to yield outcomes as defined in the member's Plan.

(C) Coverage limitations. Coverage limitations for family training ~~are~~ include (i) through (iv) of this subparagraph.

- (i) ~~The limitation for individual family training; Limitation: \$5,500~~ is \$6,500 per Plan of Care (POC) year;
- (ii) ~~The limitation for group family training; Limitation: \$5,500~~ is \$6,500 per Plan of Care POC year;
- (iii) ~~session~~ Session rates for individual and group sessions do not exceed a range comparable to rates charged by persons with similar credentials providing similar services; ~~and.~~
- (iv) ~~rates~~ Rates must be justified based on costs incurred to deliver the service and are evaluated to determine if costs are reasonable.

(D) Documentation requirements. Providers must maintain documentation fully disclosing the extent of services furnished that specifies: (i) through (ix) of this subparagraph. Progress reports for each member served must be submitted to the DDS case manager per OAC 340:100-5-52.

- (i) ~~the~~ The service date; ~~;~~
- (ii) ~~the~~ The start and stop time for each session; ~~;~~
- (iii) ~~the~~ The signature of the trainer; ~~;~~
- (iv) ~~the~~ The credentials of the trainer; ~~;~~
- (v) ~~the~~ The specific issues addressed; ~~;~~
- (vi) ~~the~~ The methods used to address issues; ~~;~~
- (vii) ~~the~~ The progress made toward outcomes; ~~;~~
- (viii) ~~the~~ The member's response to the session or intervention; ~~and.~~
- (ix) ~~any~~ Any new issues identified during the session.

- ~~(x) progress reports for each member served must be submitted to the DDS case manager per OAC 340:100-5-52; and~~
- ~~(xi) an annual report of the provider's overall Family Training program, including statistical information about members served, their satisfaction with services, trends observed, changes made in the program and program, recommendations must be submitted to the DDS programs manager for Family Training on an annual basis.~~

(5) Family counseling.

(A) Minimum qualifications. Counseling providers must hold current licensure as clinical social workers, psychologists, licensed professional counselors ~~(LPC)~~, or licensed marriage and family therapists ~~(LMFT)~~.

(B) Description of services. Family counseling offered to members and his or her natural, adoptive, or foster family members, helps to develop and maintain healthy, stable relationships among all family members.

(i) Emphasis is placed on the acquisition of coping skills by building upon family strengths.

(ii) Knowledge and skills gained through family counseling services increase the likelihood the member remains in or returns to his or her own home.

(iii) All family counseling needs are documented in the member's Plan.

(iv) Services are rendered in any confidential setting where the ~~member/family member or family~~ resides or the provider conducts business.

(C) Coverage limitations. Coverage limitations for family counseling are: outlined in (i) and (ii) of this subparagraph.

~~(i) individual family counseling; unit: 15 minutes; limitation: 400 units per Plan of Care year; and~~

~~(ii) group, six person maximum, family counseling; unit: 30 minutes; limitation: 225 units per Plan of Care year.~~

(i) Individual counseling is accounted for in units of 15 minutes with a limitation of 400 units per POC year.

(ii) Group counseling, with a six (6) person maximum, is accounted for in units of 30 minutes with a limitation of 225 units per POC year.

(D) Documentation requirements. Providers must maintain documentation fully disclosing the extent of services furnished that specifies:

(i) ~~the~~The service date;

(ii) ~~the~~The start and stop time for each session;

(iii) ~~the~~The signature of the therapist;

(iv) ~~the~~The credentials of the therapist;

(v) ~~the~~The specific issues addressed;

(vi) ~~the~~The methods used to address issues;

(vii) ~~the~~The progress made toward resolving issues and meeting outcomes;

(viii) ~~the~~The member's response to the session or intervention; and

(ix) ~~any~~Any new issue identified during the session.

(E) Reporting requirements. Progress reports for each member served must be submitted to the DDS case manager per OAC 340:100-5-52.

(6) Specialized medical supplies. Specialized medical supplies are provided per OAC 317:40-5-104.

PART 59. HOMEMAKER SERVICES

317:30-5-535. Homemaker Service in Home and Community-Based Services (HCBS) Waiver for persons with an intellectual disability or certain persons with related conditions

(a) **Introduction to waiver services.** The Oklahoma Health Care Authority (OHCA) administers ~~Home and Community-Based Services (HCBS) Waivers for persons with an intellectual disability or certain persons with related conditions that are operated by the Oklahoma Department of Human Services (OKDHS) Developmental Disabilities Services (DDS) Division.~~ Each waiver allows payment for homemaker ~~or homemaker respite services~~ service as defined in the waiver approved by the Centers for Medicare and Medicaid Services.

(b) **Eligible providers.** ~~All homemaker~~ Homemaker services providers ~~must enter into contractual agreements with the OHCA to provide HCBS for persons with an intellectual disability or related conditions.~~

(1) Providers must complete the OKDHS DDS sanctioned training per Oklahoma Administrative Code 340:100-3-38.

(2) Homemaker service is included in the member's Individual Plan (Plan). Arrangements for this service must be made through the member's DDS case manager.

(3) Homemaker service includes general household activities, such as meal preparation and routine household care when the regular caregiver responsible for these activities is temporarily absent or unable to manage the home and care for others in the home.

(4) Limits are specified in the member's Plan.

317:30-5-536. Coverage [REVOKED]

~~All homemaker or homemaker respite services must be included in the member's Individual Plan (IP). Arrangements for care under this program must be made with the member's case manager.~~

317:30-5-537. Description of services [REVOKED]

~~Homemaker services include:~~

~~(1) **Minimum qualifications.** Providers must complete the Oklahoma Department of Human Services (OKDHS) Developmental Disabilities Services Division (DDSD) sanctioned training curriculum in accordance with the schedule authorized by DDSD per OAC 340:100-3-38.~~

~~(2) **Description of services.**~~

~~(A) Homemaker services include general household activities, such as meal preparation and routine household care provided by a homemaker who is trained, when the regular caregiver responsible for these activities is temporarily absent or unable to manage the home and care for others in the home. Homemakers can help members with activities of daily living when needed.~~

~~(B) Homemaker respite services may include respite services provided to members on a short term basis due to the need for relief of the caregiver. Services may be provided in any community setting as specified per the member's Individual Plan (IP).~~

~~(3) **Coverage limitations.** Limits are specified in member's IP. Members who are in the custody of OKDHS and in out of home placement funded by OKDHS Children and Family Services Division are not eligible for respite care.~~

