



Ellen M. Buettner | Chief Executive Officer

J. Kevin Stitt | Governor

I/T/U Public Notice 2023-07

October 27, 2023

RE: Oklahoma Health Care Authority Proposed Rule, State Plan and Waiver Amendments

Dear Tribal Representative:

The purpose of this letter is to notify you of proposed changes that will be reviewed at the tribal consultation meeting on **October 31st, 2023, at 11 a.m.** OHCA invites you to attend this meeting via webinar, and we welcome any comments regarding the proposed changes. The agency is committed to active communication with tribal governments during the decision-making and priority-setting process to keep you apprised of all proposed changes.

Enclosed are summaries of the current proposed rules, state plan and waiver amendments for your review. The summaries describe the purpose of each change.

Please note that these are only proposed changes and have not yet taken effect. Before implementation, proposed changes must obtain budget authorization and approval by the OHCA board, and when applicable, federal and governor approval must be obtained.

Additionally, OHCA posts all proposed changes on the agency's [Policy Change Blog](#) and the [Native American Consultation Page](#). These public website pages are designed to give all constituents and stakeholders an opportunity to review and make comments regarding upcoming policy changes. To ensure that you stay informed of proposed policy changes, you may sign up for web alerts to be automatically notified when any new proposed policy changes are posted for comment.

OHCA values consultation with tribal governments and will provide your representatives a reasonable amount of time to respond to this notification. If you have any questions or comments about the proposed policy changes, please use the online comment system found on the [Policy Change Blog](#) and/or the [Native American Consultation Page](#).

Sincerely,

Traylor Rains
State Medicaid Director



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Proposed Rule, State Plan, and Waiver Amendments

POLICY UPDATES:

To further the agency's commitment to meaningful consultation with Tribal partners, all proposed policy revisions will be provided at the start of the consultation when they are available. An I/T/U public notice advised of the below proposed rule, state plan, and waiver revisions will be issued at least 60 days prior to their submission, but no less than 14 days (limited to abnormal circumstances). The agency strives to keep Tribal partners abreast of any exigent circumstances that may arise and cause timeframes to be updated or shortened.

In addition, the agency's website houses a policy changes blog that is dedicated to Native American Consultation. This [blog page](#) allows for comments/questions from providers and members to be submitted to the Agency and become part of the official record. All comments received are considered during the policy making process. The policy updates that are presented during this Tribal Consultation meeting will be officially posted for I/T/U provider and member review during the consultation period. To ensure that you stay informed of proposed policy changes, please sign up for the [web alert](#) option. These alerts will be sent out to all subscribers whenever any new proposed policy changes are posted for public comment.

- **340B Drug Pricing Program Policy** – The Oklahoma Health Care Authority proposes policy revisions to ensure that the agency has mechanisms in place to preserve the net cost on prescription drug services through the current 340B Shared Savings model. The proposed revisions will institute a 45-day due date from receipt of invoice, a monetary penalty/interest for late payment, and the ability to withhold payment from facilities that are non-compliant in order to receive the unpaid invoice amounts.

Anticipated Tribal Impact: N/A

Proposed Policy Change Timeline:

60-day Tribal Consultation Period: October 27, 2023 – December 26, 2023

Public Comment Period: December 1, 2023 – December 30, 2023

Medical Advisory Committee: January 4, 2024*

Public Hearing: January 8, 2024*

Board Meeting: January 17, 2024*

Effective Date: September 2024*

- **Opioid Overdose Reversal Agents** – The proposed State Plan Amendment and rule revisions will allow for coverage of new opioid overdose reversal agents as they come to market. Current language refers to "Naloxone", this will be updated with broader language to encompass other opioid overdose reversal agents to allow for coverage of these products as appropriate.



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Anticipated Tribal Impact: Yes

Proposed Policy Change Timeline:

60-day Tribal Consultation Period: October 27 – December 26, 2023

15-day Public Comment Period: October 27 – November 11, 2023

MAC Meeting: January 4, 2024*

Public Hearing: January 8, 2024*

Board Meeting: January 17, 2024*

Proposed Effective Date: March 1, 2024

SPA Requested Effective Date: March 1, 2024

- **ADvantage and State Plan Personal Care Revisions** – Oklahoma Human Services proposes revisions to the ADvantage Waiver and State Plan Personal Care Services rules to revise timelines for case management services. The proposed revisions will require applicants for ADvantage waiver services to be assessed for the Living Choice program and for Level of Care assessments to be conducted face-to-face at least every 12 months for applicants under 18 and by video or telephone at least every 36 months for those 18 and older. Other changes will streamline and updates obsolete language.

Anticipated Tribal Impact: Yes

Proposed Rule Timeline:

60-day Tribal Consultation Period: October 27, 2023 – December 26, 2023

Public Comment Period: December 1, 2023 – December 30, 2023

Medical Advisory Committee: January 4, 2024*

Public Hearing: January 8, 2024*

Board Meeting: January 17, 2024*

Effective Date: September 2024

- **Quarterly Payments for Orthodontic Services** – The Agency proposes to transition the current orthodontic payment protocol from a bulk payment system to a quarterly payment protocol. The new payment protocol will be based on twenty-four (24) months with built in progress reports. Proposed revisions will remove outdated language and add new language to delineate the new payment criteria and billing instructions.

Anticipated Tribal Impact: N/A

Proposed Policy Change Timeline:

15-day Expedited Tribal Consultation Period: October 27, 2023 – November 11, 2023

Public Comment Period: October 27, 2023 – November 11, 2023

Medical Advisory Committee: November 2, 2023

Board Meeting: December 7, 2023

Effective Date: Upon Governor's approval



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- **Federally Qualified Health Center (FQHC) Substance Use Disorder (SUD) Certification Requirements** – The proposed revisions establish rules to comply with House Bill 1071. HB1071 added Health Centers (FQHCs) to the list of providers that do not require certification by the Oklahoma Department of Mental Health and Substance Abuse Services (ODHMSAS) to provide SUD services. The intent of this legislation was to remove barriers for ambulatory SUD services in the primary care setting. Proposed revisions will update and clarify the certification requirements for Health Centers.

Anticipated Tribal Impact: Yes

Proposed Policy Change Timeline:

60-day Tribal Consultation Period: October 27, 2023 – December 26, 2023

Public Comment Period: October 27, 2023 – November 11, 2023

Medical Advisory Committee: January 4, 2024

Board Meeting: January 17, 2024

Effective Date: Upon Governor's approval

- **Update And Clarify Policy Regarding Coverage of Prosthetic Hearing Implants and Surrounding Audiology Services for Adults** – The agency proposes rule revisions to clarify coverage of prosthetic hearing implants and ocular prosthetics for adults in the expansion population. These services and devices are authorized within the Medicaid State Plan; these revisions will clarify coverage for these devices and the surrounding services.

Anticipated Tribal Impact: Yes

Proposed Policy Change Timeline:

60-day Tribal Consultation Period: October 27, 2023 – December 26, 2023

Public Comment Period: December 1, 2023 – December 30, 2023

Medical Advisory Committee: January 4, 2024*

Public Hearing: January 8, 2024*

Board Meeting: January 17, 2024*

Effective Date: September 2024

- **Update Hospital Services Policy** – The proposed revisions seek to revise the Oklahoma Health Care Authority's Hospital policy to reflect current business practices. Revisions will remove outdated language, definitions, and requirements. Other revisions will provide clarification to existing criteria surrounding items including split billing by providers, how a member is considered inpatient versus outpatient, payment structures, etc. Final revisions will make other grammatical and formatting changes as needed.

Anticipated Tribal Impact: Yes



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Proposed Policy Change Timeline:

60-day Tribal Consultation Period: October 27, 2023 – December 26, 2023

Public Comment Period: December 1, 2023 – December 30, 2023

Medical Advisory Committee: January 4, 2024*

Public Hearing: January 8, 2024*

Board Meeting: January 17, 2024*

Effective Date: September 2024

- **Developmental Disabilities Services Policy Updates** – Oklahoma Human Services requested revisions to update the Developmental Disabilities Services (DDS) rules to reflect the current DDS HCBS waivers (effective, July 1, 2023) and to reflect current practice. The proposed revisions increase the annual cap for Community Transition Services from \$2,400 to \$3,000, increase the number of hours Adult Day Health may be provided from 6 to 8 hours per day, update outdated terminology, and remove obsolete references to architectural modifications.

Anticipated Tribal Impact: Yes

Proposed Policy Change Timeline:

60-day Tribal Consultation Period: October 27, 2023 to December 26, 2023

Public Comment Period: December 1, 2023 – December 30, 2023

Medical Advisory Committee: January 4, 2024*

Public Hearing: January 8, 2024*

OHCA Board Meeting: January 17, 2024*

Effective Date: September 2024

- **Case Manager Qualifications** – The Oklahoma Health Care Authority (OHCA) will seek approval of a State Plan amendment and administrative rule changes to modify the qualifications for case managers I and II (CMI and CMII). These changes were requested by the Department of Mental Health to address critical behavioral health workforce shortages. Changes will reduce the experience required for CM I and add alternative qualifications for CM II other than a college degree. The intent is to create multiple career pathways through work experience and/or college credit to increase availability of case managers.

Anticipated Tribal Impact: Yes

Proposed Policy Change Timeline:

60-Day Tribal Consultation Period: October 27, 2023 – December 26, 2023

Public Comment Period: December 1, 2023 – December 31, 2023

Medical Advisory Committee: January 4, 2024*

Public Hearing: January 8, 2024*

Board Meeting: January 17, 2024*



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Proposed Effective Date: September 2024

SPA Requested Effective Date: September 1, 2024

- **Vaccine Counseling Code Change** – The Oklahoma Health Care Authority (OHCA) will seek approval of a State Plan amendment to remove a specific code that was erroneously included in the State Plan. The code was previously assigned to COVID-19 vaccine counseling, but the agency wishes to utilize that code for HIV counseling. New codes will be assigned to Covid Vaccine Counseling. The rates for vaccine counseling will remain unchanged.

Anticipated Tribal Impact: Yes

Proposed Policy Change Timeline:

14-day Expedited Tribal Consultation Period: October 27, 2023 – November 10, 2023

Public Comment Period: October 27, 2023 – November 10, 2023

SPA Requested Effective Date: November 1, 2023

- **Behavioral Health Workforce Changes** – At the request of the Oklahoma Department of Mental Health and Substance Abuse Services (ODHMSAS) the agency will seek approval of a State Plan amendment and administrative rules changes to streamline behavioral health workforce credentialing. These include the incorporation of Family Support Providers (FSPs) as certified Peer Recovery Support Specialists (PRSS), similar to other states. Additionally, DMH is proposing CM I certification as the new basic requirement for Behavioral Health Aides (BHAs). The proposed changes will increase billing opportunities for providers and streamline paraprofessional credentialing and certification.

Anticipated Tribal Impact: Yes

Proposed Policy Change Timeline:

60-Day Tribal Consultation Period: October 27, 2023 – December 26, 2023

Public Comment Period: December 1, 2023 – December 31, 2023

Medical Advisory Committee: January 4, 2024*

Public Hearing: January 8, 2024*

Board Meeting: January 17, 2024*

Effective Date: September 2024

SPA Requested Effective Date: September 1, 2024

- **Reporting of Standardized Medicaid & CHIP Quality Measures** – The Oklahoma Health Care Authority (OHCA) will seek approval of a State Plan amendment to comply with a CMS final rule that requires mandatory national reporting of standardized Medicaid and CHIP quality measures. While Oklahoma is already compliant with the voluntary reporting requirements with stratification, a SPA that attests that OHCA will



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report on the various required measures is necessary. Lack of compliance with this CMS final rule can result in partial or full withholding of all Federal Medicaid payments.

Anticipated Tribal Impact: N/A

Proposed Policy Change Timeline:

Tribal Consultation Period: October 27, 2023 – December 26, 2023

Public Comment Period: November 27, 2023 – December 26, 2023*

SPA Requested Effective Date: January 1, 2024

- **1915(c) HCBS Waiver Program Amendments –**

Home and Community Based Waiver Amendment:

The Oklahoma Health Care Authority (OHCA) is seeking to amend the Medically Fragile Waiver (MFW). The purpose of the Home and Community Based Medically Fragile Waiver program is to assist Medicaid members who have been diagnosed with a medically fragile condition who require a hospital/skilled nursing facility (H/SNF) level of care and whose needs could not otherwise be met through another Oklahoma waiver program. The only change is to include one-time supplemental payments to 1) support salary enhancements for recruitment and retention of Direct Support Professionals; 2) provide reimbursement of the employer's share of payroll taxes; and 3) provide incentives to participate in the program. These payments will be made to any provider employing Direct Support Professionals providing care to persons receiving Medically Fragile Waiver services.

Advantage Waiver Amendment:

The Oklahoma Department of Human Services (OHS) is seeking to amend the ADvantage Waiver. The Home and Community Based ADvantage Waiver program provides alternatives to placement in a nursing facility for eligible adults. The only change is to include one-time supplemental payments to 1) support salary enhancements for recruitment and retention of Direct Support Professionals; 2) provide reimbursement of the employer's share of payroll taxes; and 3) provide incentives to participate in the program. These payments will be made to any provider employing Direct Support Professionals providing care to persons receiving ADvantage Waiver services.

Community Waiver Amendment:

The Oklahoma Department of Human Services (OHS) is seeking to amend the Community Waiver. The Community Waiver serves individuals with Intellectual Disabilities beginning at age three. The only change is to include one-time supplemental payments to 1) support salary enhancements for recruitment and retention of Direct Support Professionals; 2) provide reimbursement of the employer's share of payroll taxes; and 3) provide incentives to participate in the program. These



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payments will be made to any provider employing Direct Support Professionals providing care to persons receiving Community Waiver services.

Homeward Bound Waiver Amendment:

The Oklahoma Department of Human Services (OHS) is seeking to amend the Homeward Bound Waiver. The Homeward Bound Waiver serves individuals with intellectual disabilities who have been certified by the United States District Court for the Northern District of Oklahoma as a member of the Plaintiff Class in Homeward Bound et al., Case No. 85-C-437-e. The only change is to include one-time supplemental payments to 1) support salary enhancements for recruitment and retention of Direct Support Professionals; 2) provide reimbursement of the employer's share of payroll taxes; and 3) provide incentives to participate in the program. These payments will be made to any provider employing Direct Support Professionals providing care to persons receiving Homeward Bound Waiver services.

In-Home Supports Waiver for Adults Amendment:

The Oklahoma Department of Human Services (OHS) is seeking an amendment to the In-Home Supports Waiver for Adults (IHSW-A). The IHSW-A serves individuals with intellectual disabilities age 18 and over. The only change is to include one-time supplemental payments to 1) support salary enhancements for recruitment and retention of Direct Support Professionals; 2) provide reimbursement of the employer's share of payroll taxes; and 3) provide incentives to participate in the program. These payments will be made to any provider employing Direct Support Professionals providing care to persons receiving In-Home Supports Waiver for Adults services.

In-Home Supports Waiver for Children Amendment:

The Oklahoma Department of Human Services (OHS) is seeking an amendment to the In-Home Supports Waiver for Children (IHSW-C). The IHSW-C serves individuals with intellectual disabilities ages 3 through 17. The only change is to include one-time supplemental payments to 1) support salary enhancements for recruitment and retention of Direct Support Professionals; 2) provide reimbursement of the employer's share of payroll taxes; and 3) provide incentives to participate in the program. These payments will be made to any provider employing Direct Support Professionals providing care to persons receiving In-Home Supports Waiver for Children services.

Anticipated Tribal Impact: Yes

Proposed Policy Change Timeline:

15-day Expedited Tribal Consultation Period: October 31, 2023 – November 15, 2023

Public Comment Period: October 16, 2023 – November 14, 2023

Tribal Consultation: October 31, 2023

Effective Date: December 1, 2023 or upon CMS approval



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