

MINUTES OF A REGULARLY SCHEDULED BOARD MEETING  
OF THE OKLAHOMA HEALTH CARE AUTHORITY BOARD  
Held at Oklahoma Health Care Authority  
Oklahoma City, Oklahoma  
February 14, 2008  
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 February 12, 2008.

Pursuant to a roll call of the members, a quorum was declared to be present, and Chairman Roggow called the meeting to order at 1:07pm.

BOARD MEMBERS PRESENT: Vice-Chairman Hoffman, Member Miller, Governor Anoatubby, Member McFall, and Chairman Roggow

ABSENT: Member Langenkamp  
Member Armstrong

OTHERS PRESENT Bill Lance, Chickasaw Nation  
Anne Roberts, OICA  
Brent Wilborn, OPCA  
Tres Savage, Capitol News  
Rich Edwards, OSF  
Sharon Neuwald, DHS

**DISCUSSION AND POSSIBLE VOTE ON APPROVAL OF BOARD MINUTES OF THE REGULARLY SCHEDULED BOARD MEETING HELD JANUARY 10, 2008**

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 McFall moved for approval of the January 10, 2008 board minutes as presented. Governor Anoatubby seconded.

FOR THE MOTION: Vice-Chairman Hoffman, Member Miller, Governor Anoatubby, Member McFall, and Chairman Roggow

ABSENT: Member Langenkamp  
Member Armstrong

**PRESENTATION OF THE EDS 2007 SERVICE EXCELLENCE CUP**

Mike Fogarty, CEO

Mr. Fogarty introduced Scott Mack/EDS Account Executive and Jeff Heller/Vice-Chairman, EDS. Mr. Mack stated that EDS has a competition (Service Excellence Cup), that is global in nature, with over 10,000 clients that compete. Mr. Heller reported that this competition is done on an annual basis and this year it is his pleasure to present this client/and client relationship trophy for service excellence to

OHCA. He stated that EDS appreciates the ongoing partnership with OHCA.

**FINANCIAL UPDATE**

Anne Garcia

Ms. Garcia reported that revenues for OHCA through December, accounting for receivables, were **\$1,496,794,555** or **.6 % under** budget. Expenditures accounting for encumbrances were **\$1,440,030,966** or **1.5% under** budget. She noted that the state dollar budget variance through December is **\$12,336,343 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):

<b>Expenditures:</b>	
Medicaid Program Variance	3.6
Administration	5.4
<b>Revenues:</b>	
Taxes and Fees	2.5
Drug Rebate	1.9
Overpayments/Settlements	(1.1)
<b>Total FY 07 Variance</b>	<b>\$ 12.3</b>

**MEDICAID DIRECTOR'S UPDATE/OEPIC-INSURE OKLAHOMA UPDATE**

Lynn Mitchell, M.D.

Dr. Mitchell noted that the SoonerCare enrollment number for December is at 608,033 members. The projected trend graph we have had something happen that we haven't seen in the last 5 fiscal years, which is intersecting lines. It appears that we are starting to see some of the citizenship and identity issues being reflected in those numbers. Historically, we are seeing about 35% members come back on by the end of the month in which eligibility was lost. Dr. Mitchell pointed out some of the different Fast Facts in which programs are being affected by the eligibility and citizenship issues. We are concerned with the continuity of the patient population, and the challenges being presented to the providers. Dr. Mitchell noted that there is a new Fast Fact this month called "SoonerCare Deliveries". From July 2006 to June 2007 SoonerCare was responsible for 32,303 births. Over 57% of all the births in the state last year were paid for through the SoonerCare Program. Dr. Mitchell presented the Insure Oklahoma (ESI-IP) numbers stating that there are currently 7,258 members with all 77 counties participating in the ESI Program. Dr. Mitchell noted that the Focus on Excellence Program is moving ahead with the debut of the website on March 1 for viewing by the public. We are in the process of launching a new program which we are calling Special Delivery for pregnant moms. Dr. Mitchell stated that the first benefit for Occupational Therapy, and Speech Therapy was launched for our adult members. Mr. Juarez McCann then spoke regarding the NASMD Meeting that will be held in

Oklahoma City beginning on June 14 thru June 18. He stated several activities are in the process of being completed. There will be tours of the Historical Society, The Memorial, with Native Dancers performing. Mr. McCann stated the NASMD Conference will be at the Sheraton Downtown.

**LEGISLATIVE UPDATE**

Nico Gomez

Mr. Gomez stated that the Health Care Authority is tracking 258 bills. They are broken down as follows: OHCA Request 06; Direct Impact 48; Appropriations 10; Indirect Bills 42; Shell Bills 04; Employee Interest 29; and Carry Over 119. The next deadlines are Thursday, February 21 for House Measures out of Subcommittee and Thursday, February 28 for House Measures out of Full Committee. For detailed information, see Item 4C of the board packet.

Mr. Fogarty announced that Deputy Director Charles Brodt is retiring at the end of the month and will be greatly missed. Mr. Brodt stated it has been his pleasure working for the OHCA and looks forward to retirement.

**ITEM 5/REPORTS TO THE BOARD BY THE BOARD COMMITTEES**

Member Miller stated that the Audit Finance Committee did meet. He stated that the agency does have a \$3.4 million in the positive variance this month and generally speaking the Governor's Budget is supportive of OHCA's Budget Request. Member Miller noted that the Governor proposes and the legislature disposes but it is a good starting point when you have the Governor's budget looking your way. This is a really important year due to the loss of FMAP matching next year. A lot of money will have to be made up in state funds that this year came through federal sources. Member Miller stated that Ms. Garcia reported that we have had a positive response from the budget committees of the Houses and Senate in explaining our budget request. There is a fall back in case there is revenue failure and that is the Rainy Day Fund which is fully funded now. Member Miller reported on the discussion of the Audit Activity that has been ongoing for the last few weeks. The Federal Auditors are leaving after being at the agency for 4 days with realms of material to study in regard to the payment accuracy audits and reviews. There will be a telephone exit conference of some type early in March. He stated that with regard to the Single State Audit there have been no known material findings. The quarterly audit report done internally shows the providers are doing slightly better than in the past.

Chairman Roggow stated that the Legislative did not meet this month.

Chairman Roggow stated the Rules Committee did meet and stated that next month the Board will be busy considering lots of rules.

**ITEM 6a/RECOMMENDATION REGARDING CONFLICTS OF INTEREST PANEL CONCERNING RECOMMENDATIONS OF THE DRUG UTILIZATION REVIEW BOARD**

Howard Pallotta, Director of Legal Services

Mr. Pallotta stated the Conflicts of Interest Panel met with regards to Items 6(DUR), Item 7(Rules), and Item 8(contracts) and found no

conflicts.

**ITEM 6b/CONSIDERATION AND VOTE TO ADD THE DRUGS LINDANE, MALATHION, AND CROTAMITON TO THE SCOPE/UTILIZATION BASED PRIOR AUTHORIZATION PROGRAM UNDER OAC 317:30-5-77.2 (e)**

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

**ITEM 6c/CONSIDERATION AND VOTE TO ADD THE THERAPEUTIC CATEGORY OF TOPICAL ANTIFUNGAL PRODUCTS TO THE PRODUCT BASED PRIOR AUTHORIZATION PROGRAM UNDER 63 OKLAHOMA STATUES 5030.5**

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

MOTION: Member McFall moved for approval of Item 6b and 6c as presented. Vice-Chairman Hoffman seconded.

FOR THE MOTION: Vice-Chairman Hoffman, Member Miller, Governor Anoatubby, Member McFall, and Chairman Roggow

ABSENT: Member Langenkamp  
Member Armstrong

**ITEM 7a/CONSIDERATION AND VOTE UPON DECLARATION OF EMERGENCY RULE A**

Cindy Roberts, Director of Program Integrity and Planning

Ms. Roberts the following rule 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 317:30-5-42.14. [AMENDED]  
OAC 317:30-5-566. [AMENDED]  
**(Reference APA WF # 07-68)**

**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 allow for partial reimbursement of subsequent surgeries performed at the same setting when performed at an ambulatory surgical center or outpatient hospital facility. The rule revision will encourage providers to perform both the major and lessor surgeries at the same setting, preventing the delay of needed surgeries and lowering the health risk to Soonercare members.

MOTION: Member Miller moved for declaration of emergency as stated on Rule A. Member McFall seconded.

FOR THE MOTION: Vice-Chairman Hoffman, Member Miller, Governor Anoatubby, Member McFall, and Chairman Roggow

ABSENT: Member Langenkamp  
Member Armstrong



**ITEM 7b/CONSIDERATION AND VOTE UPON DECLARATION OF SUBSTANTIVE RULE CHANGES FOR RULE A**

Cindy Roberts, Director of Program Integrity and Planning

- A. **CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**  
Subchapter 5. Individual Providers and Specialties  
OAC 317:30-5-42.14. [AMENDED]  
OAC 317:30-5-566. [AMENDED]  
**(Reference APA WF # 07-68)**

**SUMMARY:** Rules are revised to allow providers of SoonerCare services, when performing multiple surgeries at the same setting, to be reimbursed at 100% for the first surgery and the second and subsequent surgeries at a discounted rate, when performed at ambulatory surgical centers or outpatient hospital facilities. Current policy does not allow for payment of the subsequent surgeries at a discounted rate, causing practice to be out of compliance with policy. The rule change will allow policy to support the current payment methodology. Additionally, a cost savings should be realized over time by reimbursing providers at a discounted rate for the lessor surgeries rather than paying the full rate for the surgeries at a later date.

MOTION: Member McFall moved for approval of Rule A as presented. Governor Anoatubby seconded.

FOR THE MOTION: Vice-Chairman Hoffman, Member Miller, Governor Anoatubby, Member McFall, and Chairman Roggow

ABSENT: Member Langenkamp  
Member Armstrong

**ITEM 7 II A-B/CONSIDERATION AND VOTE UPON DECLARATION OF PERMANENT RULES**

Cindy Roberts, Director of Program Integrity and Planning

**II. Adoption of Permanent Rules as required by the Administrative Procedures Act.**

The following rules HAVE previously been approved by the Board and have Gubernatorial approval under Emergency rulemaking. These rules have been REVISED for Permanent Rulemaking.

- A. Revising Medical Suppliers rules to: (1) reorganize and be more user friendly by adding definitions and separating services; (2) include supplier accreditation, medical necessity, prescription, documentation, and prior authorization requirements; (3) address rental, purchase, repairs, maintenance, replacement, and delivery of durable medical equipment, prosthetics, orthotics and supplies (DMEPOS); (4) allow SoonerCare members freedom of provider choice; and (5) provide guidelines for new billing and reimbursement requirements. **(Reference APA WF # 07-22)**
- B. Revising rules to permit additional reimbursement to providers treating a member who is confirmed to be medically/obstetrically "high risk" and allow additional ultrasounds and non stress tests

needed beyond the basic benefit. (**Reference APA WF # 07-38**)

MOTION: Member McFall moved for approval of Item 7 II A-B as presented. Vice-Chairman Hoffman seconded.

FOR THE MOTION: Vice-Chairman Hoffman, Member Miller, Governor Anoatubby, Member McFall, and Chairman Roggow

ABSENT: Member Langenkamp  
Member Armstrong

**III. Adoption of Permanent Rules as required by the Administrative Procedures Act.**

**The following rules HAVE previously been approved by the Board and have Gubernatorial approval under Emergency rulemaking.**

- A. Revising Physicians rules to clarify terminology for cataract surgery and claims' processing with modifiers. (**Reference APA WF # 07-08**)
- B. Revising Long Term Care rules to remove the nursing facility payment methodology from rules and referencing the Medicaid State Plan. (**Reference APA WF# 07-17**)
- C. Revising rules to change the due date for the payment of the Quality of Care Fee from the 10<sup>th</sup> to the 15<sup>th</sup> of the month following the assessment. (**Reference APA WF # 07-16**)
- D. Revising PASRR rules to reflect the new required PASRR form and new submission deadline requirements. (**Reference APA WF # 07-07A and 07-07B**)
- E. Revising Residential Behavioral Management Services (RBMS) in Group Settings and Non-Secure Diagnostic and Evaluation Centers rules to: (1) allow Licensed Alcohol and Drug Counselors to provide RBMS services; (2) add trauma informed methodology as an option to staff training requirements; and, (3) update terminology as recommended by the Behavioral Health Collaborative. (**Reference APA WF # 07-10**)
- F. Revising Residential Behavioral Management Services (RBMS) in Foster Care Settings to: (1) allow Licensed Alcohol and Drug Counselors to provide RBMS services; (2) add trauma informed methodology as an option to staff training requirements; (3) update terminology as recommended by the Behavioral Health Collaborative; and, (4) add language to the inspection of care section to describe actions on contract deficiencies. (**Reference APA WF # 07-12**)
- G. Revising Adult Case Management Services rules regarding provider requirements to concur with recommendations of the Behavioral Health Collaborative. (**Reference APA WF # 07-13**)
- H. Revising Children's Case Management Services rules regarding provider requirements to concur with recommendations of the Behavioral Health Collaborative. (**Reference APA WF # 07-09**)
- I. Revising Outpatient Behavioral Health Services rules to: (1) streamline documentation; (2) broaden accessibility to providers; (3) develop consistency among state agencies that deal with mental health services; and, (4) eliminate coverage of Clubhouse services. (**Reference APA WF # 07-14**)
- J. Revising inpatient psychiatric hospital rules to establish criteria for newly defined levels of Psychiatric Residential Treatment

- Facilities. **(Reference APA WF # 07-11)**
- K. Revising and relocating Disease Management rules from Pharmacy specific to general coverage rules and to allow the expansion of Disease Management services to all provider types. **(Reference APA WF # 07-01)**
  - L. Revising pharmacy rules to: (1) allow for coverage of certain over-the-counter products if the particular product is both cost-effective and clinically appropriate; (2) remove specific drug names from policy; and (3) clean up out-dated terminology. **(Reference APA WF # 07-06)**
  - M. Revising rules to: (1) remove the prior authorization requirement for the initial evaluation of physical therapy services for children; and (2) issue provider specific rules for outpatient occupational therapy services. **(Reference APA WF # 07-23)**
  - N. Revising Physician rules to clarify payment for venipuncture and catheterization services. **(Reference APA WF # 07-15)**
  - O. Revising Dental rules to allow prior authorization information for periodontal scaling and root planing to be submitted after the services have been provided in certain situations. **(Reference APA WF # 07-18)**
  - P. Revising O-EPIC Individual Plan (IP) rules to allow 12 months of SoonerCare eligibility to the newborn of an O-EPIC IP member. **(Reference APA WF # 07-19)**
  - Q. Rules are being issued to establish guidelines for ICF/MR level of care medical eligibility determinations for TEFRA children. **(Reference APA WF # 07-21)**
  - R. Revising eligibility rules for long term services to comply with provisions of the Deficit Reduction Act of 2005 which: (1) requires a change in the disclosure and treatment of annuities purchased on or after 2/8/06; (2) establishes an upper limit for the excluded value of a home; (3) requires that included in the definition of "assets" are funds used to purchase a promissory note, loan, or mortgage, unless certain circumstances exist; and (4) redefines "assets" to include the purchase of a life estate interest in another individual's home. **(Reference APA WF # 07-24)**
  - S. Revising rules to remove the requirement for submission of a specific form for sterilization consent and allow providers to use any form that is federally approved or mandated for sterilization consent. **(Reference APA WF # 07-02)**
  - T. DDS rules are revised to: (1) reflect current residential support options through the DDS Home and Home and Community-Based Services (HCBS) Waiver program as approved by the Centers for Medicare and Medicaid Services (CMS); and (2) provide a new residential support option known as community Transition services (CTS). **(Reference APA WF # 07-28)**
  - U. Rules are revised to clarify reimbursement for therapy for adults in the inpatient and outpatient hospital settings. **(Reference APA WF # 07-30)**
  - V. Rules are revised to require written prescription be printed on tamper-proof paper in order to qualify for FFP. **(Reference APA WF # 07-44)**
  - W. Rules are revised to expand current O-EPIC Employer Sponsored Insurance (ESI) and Individual Plan (IP) maximum income standards from 185% of the Federal Poverty Level to 200%. **(Reference APA WF # 07-39)**
  - X. Rules are revised to clarify that a member: (1) has the option to enroll in SoonerPlan only, even if they may be otherwise eligible



for SoonerCare; and (2) may not receive family planning waiver benefits if he or she has had a sterilization procedure. **(Reference APA WF # 07-46)**

- Y. Revising rules to postpone until 2011 the requirement that suppliers of durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) must be accredited by a Medicare-deemed accreditation organization for quality standards for DMEPOS suppliers in order to receive reimbursement from the SoonerCare program. **(Reference APA WF # 07-48)**
- Z. Revising SoonerCare application procedure rules to allow the acceptance of facsimile signatures on all SoonerCare applications. **(Reference APA WF # 07-25)**
- AA. Revising rules to add Licensed Genetic Counselors (LGCs) to individual providers and specialties who provide health care to SoonerCare members. **(Reference APA WF # 07-41)**
- BB. Revising rules to add Maternal and Infant Health Licensed Clinical Social Workers (MIHLCSWs) to individual providers and specialties who provide health care to SoonerCare members. **(Reference APA WF # 07-40)**
- CC. Revising rules to exclude certain pregnancy related services from the Insure Oklahoma/O-EPIC Individual Plan benefit package. Excluded are: (1) services of an International Board Certified Lactation Consultant (IBCLC), (2) services of a Maternal and Infant Health Licensed Clinical Social Worker (MIHLCSW), and (3) enhanced services for medically high risk pregnancies. **(Reference APA WF # 07-53)**
- DD. Revising rules to allow an exception for coverage of external breast prostheses. **(Reference APA WF # 07-47)**
- EE. Revising eligibility requirements to recognize children who reside in IHS, BIA, or Tribal controlled dormitories as residents of Oklahoma for SoonerCare eligibility purposes. **(Reference APA WF # 07-50)**
- FF. Revising rules to add pregnancy related benefits to improve health outcomes for children who are citizens at birth. **(Reference APA WF # 07-58)**
- GG. Revising rules to allow SoonerCare providers to bill and receive payment for an evaluation and management service and an amniocentesis on the same date of service. **(Reference APA WF # 07-51)**
- HH. Revising rules to implement Section 6021 of the Deficit Reduction Act regarding Long-Term Care Insurance Partnership programs. Rules regarding income and resource disregards are also amended to specifically address the following payments as allowable income or resource disregards when determining eligibility for SoonerCare services: (1) payments made to certain Vietnam veterans' children with spina bifida; (2) payments made to certain Korea service veterans' children with spina bifida; and (3) payments made to the children of women Vietnam veterans who suffer from certain birth defects. **(Reference APA WF # 07-57)**
- II. Revising rules to eliminate the requirement that an Explanation of Medicare Benefits be attached to a cross-over claim before it can be processed. **(Reference APA WF # 07-65)**

MOTION:

Governor Anoatubby moved for approval of Item 7 III A-II as presented. Member Miller seconded.

FOR THE MOTION:

Vice-Chairman Hoffman, Member  
Miller, Governor Anoatubby, Member  
McFall, and Chairman Roggow

ABSENT:

Member Langenkamp  
Member Armstrong

**ITEM 8a/CONSIDERATION AND VOTE TO AUTHORIZE EXPENDITURE OF FUNDS FROM  
FOR AN EVALUATION OF THE HEALTH CARE AUTHORITY'S MANAGED CARE SECTION  
1115 WAIVER**

Beth VanHorn, Director of Legal Services

Ms. VanHorn presented the background, scope of work, contract period,  
and contract amount and procurement method. She made recommendation  
for the board approval to expend funds for administrative and start-up  
costs as discussed.

MOTION:

Vice-Chairman Hoffman moved for  
approval of Item 8a as presented.  
Member McFall seconded.

FOR THE MOTION:

Vice-Chairman Hoffman, Member  
Miller, Governor Anoatubby, Member  
McFall, and Chairman Roggow

ABSENT:

Member Langenkamp  
Member Armstrong

**ITEM 8b/CONSIDERATION AND VOTE TO AUTHORIZE EXPENDITURE OF FUNDS FOR A  
COLLECTIONS CONTRACT WITH BECK & ASSOCIATES**

Beth VanHorn, Director of Legal Services

Ms. VanHorn stated that OHCA's existing contract with Lee & Gooch  
provides for representation of OHCA employee Terrie Fritz in the case  
of Evans v. Fogarty CIV-01-252-HE. This amendment increases the not-  
to-exceed amount from \$25,000 to \$125,000 per fiscal year. Ms. VanHorn  
recommended the board approval to expend funds as discussed.

MOTION:

Vice-Chairman Hoffman moved for  
approval of Item 8b as presented.  
Governor Anoatubby seconded.

FOR THE MOTION:

Vice-Chairman Hoffman, Member  
Miller, Governor Anoatubby, Member  
McFall, and Chairman Roggow

ABSENT:

Member Langenkamp  
Member Armstrong

**ITEM 9/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 McFall moved that the OHCA  
Board go into Executive Session.  
Vice-Chairman Hoffman seconded.

FOR THE MOTION:

Vice-Chairman Hoffman, Member  
Miller, Governor Anoatubby, Member  
McFall, and Chairman Roggow

ABSENT:

Member Langenkamp  
Member Armstrong

**NEW BUSINESS**

None

**ADJOURNMENT**

MOTION:

As there was no further business,  
Member McFall moved that the OHCA  
Board adjourn. Vice-Chairman  
Hoffman seconded.

FOR THE MOTION:

Vice-Chairman Hoffman, Member  
Miller, Governor Anoatubby, Member  
McFall, and Chairman Roggow

ABSENT:

Member Langenkamp  
Member Armstrong