

**CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS  
AND CHILDREN  
SUBCHAPTER 17. ADVANTAGE WAIVER SERVICES**

**317:35-17-3. ADvantage program services**

(a) The ADvantage program is a Medicaid Home and Community Based Waiver used to finance noninstitutional long-term care services for elderly and a targeted group of physically disabled adults when there is a reasonable expectation that within a 30 day period, the person's health, due to disease process or disability, would, without appropriate services, deteriorate and require nursing facility care to arrest the deterioration. ADvantage program ~~elients~~ members must be ~~Medicaid~~ Medicaid SoonerCare eligible and must not reside in an institution, room and board, licensed residential care facility, or licensed assisted living facility. The number of ~~elients~~ individuals who may receive ADvantage services is limited.

(1) To receive ADvantage services, individuals must meet one of the following categories:

(A) be age 65 years or older, or

(B) be age 21 or older if physically disabled and not developmentally disabled or if the person has a clinically documented, progressive degenerative disease process that responds to treatment and previously has required hospital or nursing facility (NF) level of care services for treatment related to the condition and requires ADvantage services to maintain the treatment regimen to prevent health deterioration, or

(C) if developmentally disabled and between the ages of 21 and 65, not have mental retardation or a cognitive impairment related to the developmental disability.

(2) In addition, the individual must meet the following criteria:

(A) require nursing facility level of care [see OAC 317:35-17-2];

(B) meet service eligibility criteria [see OAC 317:35-17-3(d)]; and

(C) meet program eligibility criteria [see OAC 317:35-17-3(e)].

(b) Home and Community Based Waiver Services are outside the scope of ~~state plan~~ Medicaid State Plan services. The Medicaid waiver allows the OHCA to offer certain Home and Community Based services to an annually capped number of persons who are categorically needy (refer to OKDHS form 08AX001E (Appendix C-1), Schedule VIII. B. 1.) and without such services would be institutionalized. The estimated cost of providing an individual's care outside the nursing facility cannot exceed the annual cost of caring for that individual in a nursing facility. When determining the ADvantage

service plan cost cap for an individual, the comparable Medicaid SoonerCare cost to serve that individual in a nursing facility is estimated. If the individual has Acquired Immune Deficiency Syndrome (AIDS) or if the individual requires ventilator care, the appropriate Medicaid SoonerCare enhanced nursing facility rate to serve the individual is used to estimate the ADvantage cost cap. To meet program cost effectiveness eligibility criteria, the annualized cost of a ~~client's~~ individual's ADvantage services cannot exceed the ADvantage program services expenditure cap unless approved by the ~~Administrative Agent (AA) under one of~~ Oklahoma DHS Aging Services Division (OKDHS/ASD) in accordance with the exceptions listed in (1)- ~~(5)~~ (6) of this subsection. The cost of the service plan furnished to ~~a client~~ an individual may exceed the expenditure cap only when all of the increased expenditures above the cap are due solely to:

- (1) a one-time purchase of home modifications and/or specialized medical equipment; and/or
- (2) documented need for a temporary (not to exceed a 60-day limit) increase in frequency of service or number of services to prevent institutionalization; or
- (3) expenditures are for ADvantage Hospice services;
- (4) expenditures in excess of the cap are for prescribed drugs, which would be paid by Medicaid SoonerCare if the individual were receiving services in a nursing home; and/or
- (5) expenditures are for Institution Transition Services, and the annualized expenditures for ADvantage services to ~~a client~~ an individual under any combination of ~~these~~ described under exceptions (1) through (5) can reasonably be expected to be no more than 200% of the individual cap; or
- (6) the OKDHS/ASD Director:
  - (A) determines that providing ADvantage services to the member would benefit the member and be in the best interests of the state;
  - (B) specifically authorizes a service plan that is not more than 250% of the cost cap prior to taking into account exception costs;
  - (C) determines that the service plan is less than 175% of the cost cap after taking into account any combination of circumstances described under cost exceptions (1) through (5); and
  - (D) determines that fewer than 150 members are already receiving services under this cost cap exception.

(c) Services provided through the ADvantage waiver are:

- (1) case management or Comprehensive Home Care (CHC) case management;
- (2) respite or CHC in-home respite;
- (3) adult day health care;
- (4) environmental modifications;

- (5) specialized medical equipment and supplies;
  - (6) physical therapy/occupational therapy/respiratory therapy/speech therapy or consultation;
  - (7) advanced supportive/restorative assistance or CHC advanced supportive/restorative assistance;
  - (8) skilled nursing or CHC skilled nursing;
  - (9) home delivered meals;
  - (10) hospice care;
  - (11) medically necessary prescription drugs within the limits of the waiver;
  - (12) personal care (state plan), ADvantage personal care, or CHC personal care;
  - (13) Personal Emergency Response System (PERS);
  - (14) Consumer-Directed Personal Assistance Services and Supports (CD-PASS);
  - (15) Institution Transition Services; and
  - (16) ~~Medicaid~~ SoonerCare medical services for individuals age 21 and over within the scope of the State Plan.
- (d) The OKDHS area nurse or nurse designee makes a determination of service eligibility prior to evaluating the UCAT assessment for nursing facility level of care. The following criteria are used to make the service eligibility determination:
- (1) an open ADvantage Program waiver slot, as authorized by the waiver document approved by the Centers for Medicare and Medicaid Services (CMS), is available to assure federal participation in payment for services to the ~~client~~ individual.  
If the ~~AA~~ OKDHS/ASD determines all ADvantage waiver slots are filled, the ~~client~~ individual cannot be certified on the OKDHS computer system as eligible for ADvantage services and the ~~client's~~ individual's name is placed on a waiting list for entry as an open slot becomes available. ADvantage waiver slots and corresponding waiting lists, if necessary, are maintained for persons that have a developmental disability and those that do not have a developmental disability.
  - (2) the ~~client~~ individual is in the ADvantage targeted service group. The target group is an individual who is frail and 65 years of age or older or age 21 or older with a physical disability and who does not have mental retardation or a cognitive impairment.
  - (3) the ~~client~~ individual does not pose a physical threat to self or others as supported by professional documentation.
  - (4) members of the household or persons who routinely visit the household, as supported by professional documentation, do not pose a threat of harm or injury to the ~~client~~ individual or other household visitors.
- (e) The ~~AA~~ OKDHS/ASD determines ADvantage program eligibility through the service plan approval process. The following criteria are used to make the ADvantage program eligibility determination

that ~~a client~~ an individual is not eligible:

(1) if the ~~client's~~ individual's needs as identified by UCAT and other professional assessments cannot be met through ADvantage program services, Medicaid State Plan services and other formal or informal services. The State, as part of the waiver program approval authorization, assures CMS that each waiver ~~client's~~ individual's health, safety, or welfare can be maintained in their home. If a ~~client's~~ member's identified needs cannot be met through provision of ADvantage program or Medicaid State Plan services and other formal or informal services are not in place or immediately available to meet those needs, the ~~client's~~ individual's health, safety or welfare in their home cannot be assured.

(2) if the ~~client~~ individual poses a physical threat to self or others as supported by professional documentation.

(3) if other members of the household or persons who routinely visit the household who, as supported by professional documentation, pose a threat of harm or injury to the ~~client~~ individual or other household visitors.

(4) if the ~~client's~~ individual's needs are being met, or do not require ADvantage services to be met, or if the ~~client~~ individual would not require institutionalization if needs are not met.

(5) if, after the service and care plan is developed, the risk to ~~client~~ individual's health and safety is not acceptable to the ~~client~~ individual, or to the interdisciplinary service plan team, or to the ~~AA~~ OKDHS/ASD.

(f) The case manager provides the ~~AA~~ OKDHS/ASD with professional documentation to support the recommendation for redetermination of program eligibility. The service providers continue providing services according to the service plan as provider safety permits until the ~~client~~ individual is removed from the ADvantage program.

As a part of the procedures requesting redetermination of program eligibility, the ~~AA~~ OKDHS/ASD will provide technical assistance to the Provider for transitioning the ~~client~~ individual to other services.

(g) Individuals determined ineligible for ADvantage program services are notified in writing by OKDHS of the determination and of their right to appeal the decision.

~~(h) The AA provides OKDHS with notification that the client is no longer program eligible.~~