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POLICY TRANSMITTAL NO. 07-20	DATE: APRIL 10, 2007
OKLAHOMA HEALTH CARE AUTHORITY/AGING SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF LEGISLATIVE RELATIONS AND POLICY

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TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 317:35-15-2; 35-15-8; 35-15-8.1; 35-15-10; and 35-15-13.1.

EXPLANATION: **Policy revisions were approved by the Board and the Governor as required by the Administrative Procedures Act.**

Personal Care Services rules are revised to shift the responsibility for the completion of the skilled nursing assessment and service planning from state employed Oklahoma Department of Human Services (OKDHS) registered nurses to provider agency nurses.

Original signed on 4-5-07

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Carey Garland, Director  
Aging Services Division

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Sharon Neuwald, Coordinator  
Office of Legislative Relations and Policy

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WF # 07-G (NAP)

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## **INSTRUCTIONS FOR FILING MANUAL MATERIAL**

OAC is the acronym for Oklahoma Administrative Code. If OAC appears before a number on an Appendix or before a Section in text, it means the Appendix or text contains rules or administrative law. Lengthy internal policies and procedures have the same Chapter number as the OAC Chapter to which they pertain following an "OKDHS" number, such as personnel policy at OKDHS:2-1 and personnel rules at OAC 340:2-1. The "340" is the Title number that designates OKDHS as the rulemaking agency; the "2" specifies the Chapter number; and the "1" specifies the Subchapter number.

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, OKDHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, OKDHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at 405-521-4326.

### **REMOVE**

317:35-15-2

317:35-15-8

317:35-15-8.1

317:35-15-10

317:35-15-13.1

### **INSERT**

317:35-15-2, pages 1-2, revised 8-2-06

317:35-15-8, pages 1-3, revised 8-2-06

317:35-15-8.1, pages 1-2, revised 8-2-06

317:35-15-10, pages 1-3, revised 8-2-06

317:35-15-13.1, pages 1-2, revised 8-2-06

**317:35-15-2. Personal Care services**

(a) Personal Care is assistance to an individual in carrying out activities of daily living, such as bathing, grooming and toileting, or in carrying out instrumental activities of daily living, such as preparing meals and doing laundry or errands directly related to the member's personal care needs, to assure personal health and safety of the individual or to prevent or minimize physical health regression or deterioration. The Personal Care service requires a skilled nursing assessment of need, development of a care plan to meet identified personal care needs, care plan oversight and periodic re-assessment and updating, if necessary, of the care plan. Personal Care services do not include technical services such as, tracheal suctioning, bladder catheterization, colostomy irrigation, and operation of equipment of a technical nature.

(b) Personal Care services support informal care being provided in the member's home. A rented apartment, room or shelter shared with others is considered "the member's home". A facility which meets the definition of a nursing facility, room and board, licensed residential care facility, group home, rest home or a specialized home as set forth in O.S. Title 63, Section 1-819 et seq., Section 1-899.1 et seq., and Section 1-1902 et seq., and/or in any other typed of settings prohibited under applicable federal or state statutes, rules, regulations, or other written instruments that have the effect of law is not considered the "the member's home" for delivery of SoonerCare Personal Care Program services.

(c) Personal Care services may be provided by an individual employed by the member referred to as a Personal Care Assistant (PCA) or by a qualified employee of a home care agency that is certified to provide PC services and contracted with the OHCA to provide PC services. OKDHS must determine a PCA to be qualified to provide PC services before they can provide services. ■ 1

**INSTRUCTIONS TO STAFF**

1. The OKDHS nurse will:
  - (1) conduct a check of the:
    - (A) OSBI database;
    - (B) nurse aid registry; and
    - (C) community service registry; and
  - (2) perform training and competency assessment of the provider.

(3) perform training and competency assessment of the provider.

**317:35-15-8. Agency Personal Care service management**

(a) At the time of assessment, the OKDHS nurse informs the member of the qualified agencies in their local area available to provide services and obtains the member's primary and secondary choice of agencies. If the member or family declines to choose a primary PC service agency, the OKDHS nurse selects an agency from a list of all local available agencies, using a round-robin system. The OKDHS nurse documents the name of the selected PC service agency.

**■ 1**

(b) After medical and financial eligibility are established, OKDHS contacts the member's preferred PC service agency or, if necessary, the secondary agency or the agency selected by the rotation system. The OKDHS nurse forwards the referral to the PC services agency and establishes an initial PC skilled nursing service authorization

for assessment and care plan development. ■ 2 Within one working day, OKDHS notifies the PC service agency and member of eligibility approval and also the authorization for PC skilled nursing for assessment and care plan development. The agency, prior to placing a PCA in the member's home, initiates an OSBI background check, checks the OKDHS Community Services Worker Registry in accordance with Section 1025.2 of Title 56 of the Oklahoma Statutes, and, as appropriate, checks the Certified Nurse Aid Registry.

(c) Within ten working days of receipt of the member's PC eligibility approval, the PC services agency skilled nurse completes an in-home assessment of the member's PC service needs, develops a care plan and submits the plan to the OKDHS nurse. The member's PC services care plan includes PC services goals and tasks, the number of authorized PC service units per month, frequency of PC service visits, the begin date for PC services, and the care plan end date which is no more than one year from the plan begin date. If more than one person in the household has been authorized to receive PC services, all household members' care plans are discussed and developed with the eligible members so service delivery can be coordinated to achieve the most efficient use of resources. The number of units of PC service authorized for each individual is distributed between all eligible family members to assure that the absence of one family member does not adversely affect the family member(s) remaining in the home.

(d) Within three working days of receipt of the care plan from the

**MEDICAL ASSISTANCE FOR ADULTS  
AND CHILDREN-ELIGIBILITY**

OAC 317:35-15-8 p(2)

PC services agency, the OKDHS nurse reviews and approves or denies the care plan and notifies the agency. ■ 3 The OKDHS nurse may also reduce the number of units requested by the PC services agency and then approve the care plan. When the OKDHS nurse denies a plan or approves a plan with fewer authorized units than the submitted plan, OKDHS consults with the PC services agency prior to denying the care plan or approving the care plan with reduced units.

(e) Prior to placing a PC attendant in the member's home or other service-delivery setting, an OSBI background check, OKDHS Community Service Worker Registry check in accordance with Section 1025.2 of Title 56 of the Oklahoma Statutes, and as appropriate, the Certified Nurse Aide Registry Check must be completed.

(f) The PC service skilled nurse monitors their member's care plan. The PC service provider agency contacts the member within 5 calendar days of receipt of the approved care plan in order to make sure that services have been implemented and the needs of the member are being met. The PC services agency nurse makes a home visit at least every 180 days to assess the member's satisfaction with their care and to evaluate the care plan for adequacy of goals and units authorized. Whenever a home visit is made, the PC services agency nurse documents their findings in the personal care services progress notes. Requests by the PC service agency to change the number of units authorized in the care plan are submitted to OKDHS and are approved or denied by the OKDHS area nurse, or designee prior to implementation of the changed number of units. Annually, or more frequently if the member's needs change, the PC services agency nurse re-assesses member's need and develops a new care plan to meet personal care needs. If the member's need does not change, the agency nurse may re-authorize the member's existing plan.

(g) When the PC services agency returns the member's care plan containing a service start date to OKDHS, the OKDHS nurse notifies the OKDHS county social worker in writing of the service and number of authorized PC service units and the start and end date of PC service authorization.

**INSTRUCTIONS TO STAFF**

**1. The OKDHS nurse documents the consumer's choice on the Adv1.**

2. The OKDHS nurse will document the provider notification.
3. The OKDHS nurse documents the care plan approval or denial.



**317:35-15-8.1. Agency Personal Care services; billing, and issue resolution**

The Administrative Agent (AA) certifies qualified PC service agencies and facilitates the execution of the agencies' SoonerCare contracts on behalf of OHCA. OHCA will check the list of providers that have been barred from Medicare/Medicaid participation to ensure that the PC services agency is not listed.

(1) **Payment for Personal Care.** Payment for PC services is generally made for care in the member's "own home". In addition to an owned or rented home, a rented apartment, room or shelter shared with others is considered to be the member's "own home".

A facility that meets the definition of a nursing facility, room and board, licensed residential care facility, licensed assisted living facility, group home, rest home or a specialized home as set forth in O.S. Title 63, Section 1-819 et seq., Section 1-890.1 et seq., and Section 1-1902 et seq., and/or in any other type of settings prohibited under applicable federal or state statutes, rules, regulations, or other written instruments that have the effect of law is not a setting that qualifies as the member's "own home" for delivery of PC services through SoonerCare. With prior approval, PC services may be provided in an educational or employment setting to assist the member in achieving vocational goals identified on the care plan.

(A) **Use of Personal Care service agency.** To provide PC services, an agency must be licensed by the Oklahoma State Department of Health, meet certification standards identified by OKDHS or the AA, and possess a current SoonerCare contract.

(B) **Reimbursement.** Personal Care services payment on behalf of a member is made according to the type of service and number of units of PC services authorized in the care plan.

(i) The amount paid to PC services providers for each unit of service is according to the established SoonerCare rates for the PC services. Only authorized units contained on each eligible member's individual care plan are eligible for reimbursement. Providers serving more than one PC service member residing in the same residence will assure that the members' care plans combine units in

the most efficient manner possible to meet the needs of all eligible persons in the residence.

(ii) Payment for PC services is for tasks performed in accordance with OAC 317:30-5-951 only when listed on an authorized care plan. Payment for PC skilled nursing service is made on behalf of the member for assessment/evaluation and associated service planning per assessment/service planning visit by the provider agency personal care skilled nurse.

(2) **Issue resolution.** If the member is dissatisfied with the PC services provider agency or the assigned PCA, and has exhausted attempts to work with the PC services agency's grievance process without resolution, the member may contact the OKDHS nurse to attempt to resolve the issues. The member has the right to appeal to the OHCA in accordance with OAC 317:2-1-2. For members receiving ADvantage services, the member or family should contact their case manager for the problem resolution. If the problem remains unresolved, the member or family should contact the Consumer Inquiry System (CIS). Providers are required to provide the CIS contact number to every member. The ADvantage Program member also has the right to appeal to the OHCA in accordance with OAC 317:2.

**317:35-15-10. Redetermination for Personal Care services**

(a) **Recertification.** The OKDHS nurse re-assesses the PC services member for medical re-certification based on the member's needs and level or caregiver support required, using the UCAT at least every 36 months. During this re-certification assessment, the OKDHS nurse informs the member of the state's other SoonerCare long-term

care options. ■ 1 The OKDHS nurse submits the re-assessment, to the OKDHS area nurse, or designee, for re-certification. Recertification documents are sent to the area nurse, or designee, no later than the tenth day of the month in which the certification expires. When the area nurse, or designee determines medical eligibility for PC services, a re-certification review date is entered on the system.

**(b) Change in service plan and care plan for State Plan PC members.**

Upon notification by the PC service agency of the member's need for a change in the amount of PC service required, the OKDHS nurse initiates the process to increase or decrease the approved units of service on the member's care plan. Based on the documentation provided by the PC service agency to OKDHS, the area nurse or designee approves or denies the care plan changes within three working days of receipt of the request. A copy of the signed care plan is included in the case record. The social worker updates the service authorization system after they are notified of the increase or decrease.

**(c) Voluntary closure of State Plan PC services.** If a member decides Personal Care services are no longer needed to meet his/her needs, a medical decision is not needed. The member and the OKDHS nurse or social worker completes and signs OKDHS form AG-17, Voluntary Action of Personal Care Case Closure form.

**(d) Resuming State Plan PC services.** If a member approved for Personal Care services has been without PC services for less than 90 days but still has a current PC services medical and SoonerCare financial eligibility approval, PC services may be resumed using the member's previously approved care plan. The PC service agency submits a PC services skilled nursing re-assessment of need within ten working days of the resumed plan start date. If the member's needs dictate, the PC services agency may submit a request for a change in authorized PC services units with the re-assessment for

authorization review by OKDHS. ■ 2

(e) Financial ineligibility. Anytime OKDHS determines a PC services member does not meet the SoonerCare financial eligibility criteria, the local OKDHS office notifies the member, PC service provider, and the OKDHS nurse of financial ineligibility.

(f) Closure due to medical ineligibility. If the local OKDHS office is notified through the system that a member is no longer medically eligible for Personal Care, the social worker notifies the member of the decision. The OKDHS nurse notifies the PC service agency.

(g) Termination of State Plan Personal Care Services.

(1) Personal Care services may be discontinued if:

(A) the member poses a threat to self or others as supported by professional documentation; or

(B) 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 member or other household visitors; or

(C) the member or family member fails to cooperate with Personal Care service delivery or to comply with OHCA or OKDHS rules as supported by professional documentation; or

(D) the member's health or safety is at risk as documented on the UCAT; or

(E) additional services, either "formal" (i.e., paid by Medicaid or some other funding source) or "informal" (i.e., unpaid) are provided in the home eliminating the need for SoonerCare Personal Care services.

(2) The member refuses to select and/or accept the services of a PC service agency or PCA for 90 consecutive days as supported by professional documentation.

(3) For persons receiving State Plan PC services, the PC services agency submits documentation with the recommendation to discontinue services to OKDHS. The OKDHS notifies the member and the Personal Care service agency or PCA, and the local

county social worker of the decision to terminate services. The social worker closes the authorization on the OKDHS system which sends an official closure notice to the member informing them of their appropriate member rights to appeal the decision to discontinue services.

**INSTRUCTIONS TO STAFF**

- 1. The OKDHS nurse documents providing LTC option information on the UCAT.**
- 2. The OKDHS nurse requests and reviews the agency's completed AG22P.**

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