

# NCOTA Comment Letter Template for 2024 NC DHHS Proposed Rule Change for 10A, Outpatient Specialized Therapies

**BEFORE YOU SEND AN EMAIL TO NC DHHS, PLEASE ENSURE YOU HAVE REMOVED OR EDITED ALL HIGHLIGHTED AREAS. PLEASE DO NOT JUST COPY AND PASTE, AS THIS MAY RISK IRRITATING THE STAFF WHO ARE REQUIRED TO READ THESE COMMENTS**

Comment Letter Template is attached as a word document.

**COMMENTS ARE DUE ON FRIDAY, MAY 18 2024.**

View proposed rule changes at

<https://medicaid.ncdhhs.gov/meetings-notice/proposed-medicaid-policies>

PDF of the proposed rule (Yellow highlight indicates additions, blue highlight with strikethrough indicates removal):

<https://medicaid.ncdhhs.gov/public-comment-10a-outpatient-specialized-therapies/download?attachment>

Email all comments to [Medicaid.public.comment@dhhs.nc.gov](mailto:Medicaid.public.comment@dhhs.nc.gov)

You can insert your comments into the body of the email or as an attachment.

Below is an explainer of the policy so you can

## NCOTA Requests for submitting a comment:

- Remain professional and polite in your letter
- Insert your personal stories and perspectives without sharing patient identifying information (no HIPAA violations, please)
- These policy changes apply to the traditional Medicaid policy provided by the state. MCOs can go above and beyond these coverage policies—this sets the minimum requirements for MCOs.
- Keep all comments focused on this policy - we know there are many areas of Medicaid policy that can be improved, but it's best to remain focused for our message to be received fully
- Remember that NC DHHS's goal is to serve its beneficiaries and the public first. If you plan to discuss any financial implications for you or your business, please frame this discussion in a way that demonstrates how it will impact Medicaid beneficiaries for the most effective advocacy.
- Share this information and template letter with at least 2 friends! Anyone can submit a comment—you, your family, a patient, your boss! It is important that the public provide their feedback, as you never know who this policy may impact.

- If you have any questions or require assistance, email [NCOTAadvocacy@gmail.com](mailto:NCOTAadvocacy@gmail.com). We will do our best to respond as soon as possible!

### **Why it is important for you to submit a comment:**

When a change to Medicaid or Medicare policy occurs, it typically has to go through a “rule-making process.” This process requires the agencies to release a public notice of the proposed change and have a public commenting period.

The agencies are then required to review all submissions and consider them before publishing the final rule. Meaning, they must read your stories and consider your perspective and the potential implications of any policy. This is your opportunity to make a difference in our profession and in the lives of your clients and patients.

Please keep in mind that this is but one step in the path of advocacy! We can celebrate the wins while also identifying areas for improvement. It is important for us to highlight what we like and what we think can be better.

### **What rule is being changed:**

The North Carolina Department of Health and Human Services (NC DHHS) announced a proposed change to the Clinical Practice Policy 10A, Outpatient Specialized Therapies (linked below).

This policy identifies coverage of outpatient occupational therapy services for Medicaid beneficiaries and establishes a baseline of coverage for Managed Care Organizations (MCOs).

### ***NCOTA Supports Prior Auth and Visit Limit Updates:***

The rule has a few technical language updates, but the main substance NCOTA is paying attention to regards the changes to prior authorization and visit limitations for individuals over the age of 21. NC DHHS has proposed to significantly expand coverage of visits for adults over the age of 21 and also significantly expanded the limit of visits that can be requested on the prior auth.

Although much work remains to improve the prior authorization process, we can celebrate this change as a step forward. This policy still significantly expands current services from 30 visits per year to 120 total possible visits per year and reduces provider burden by expanding the prior auth limitations from 3 to 12 visits.

This section is an opportunity to express why this expansion of coverage will improve patient care or access. You can also mention examples of where patients have lost access to medically necessary care or if it delayed care due to the former policies and prior auth limitations.

### ***NCOTA Concerns - OT and PT share visits:***

With the passage of Medicaid Expansion, NC DHHS is required to update its plans and coverage and is undergoing a review of many policies impacting the adult population.

In this proposed rule, OT and PT share visit limits. The exact language is shown below:

- “A total maximum of 30 treatment visits per calendar year combined across occupational and physical therapy habilitative service.
- A total maximum of 30 treatment visits per calendar year combined across occupational and physical therapy rehabilitative services.”

*What this means in practice:*

If a patient needs PT and OT, the disciplines will need to ensure that the total number of PT AND OT visits does not exceed 30 in a calendar year. So, if a patient received 20 visits of PT from January - May and has now received an order for OT in November, the patient will only have 10 covered visits left.

Overall, NCOTA does not support visit limitations with a hard cap because this prevents patients from receiving additional services that may be necessary for their medical conditions and instead places an arbitrary limit on services.

*Why OT and PT are sharing visits:*

NC DHHS has based the new proposed coverage guidelines in 10A on the NC BCBS “Blue Options” plan. The Blue Options plan combines OT and PT into one shared bucket of visit limitations, with SLPs having their own bucket of visits. In our comment letter template below and the official NCOTA comment letter, we have language to encourage NC DHHS to pursue options to deviate from this policy.

When expanding Medicaid, states must select an Alternative Benefit Plan (ABP) from the state's largest insured commercial, non-Medicaid enrollment, NC BCBS. The Blue-Options plan is approved by the Secretary for NC, and therefore, the coverage policy in this proposed rule change is a verbatim copy of the BCBS Blue Options therapy benefit coverage. This policy was established as part of the Affordable Care Act (ACA) to ensure that Medicaid expansion beneficiaries received the same access to the ACA-outlined 13 Essential Health Benefits.

Under Medicaid national law, OT, PT, and SLP services are *optional* coverage benefits, but under the ACA, they are considered Essential Health Benefits under rehabilitative and habilitative services. The laws regarding how these plans are selected and the ability to change them are very “in the weeds” and if you have any questions, please reach out to [NCOTAadvocacy@gmail.com](mailto:NCOTAadvocacy@gmail.com). There are some potential avenues NC DHHS can take to change the use of the Blue Options plan for this coverage policy, but there are also numerous barriers that would make it a difficult process - so we will not be surprised if OT and PT are still combined when the final rule is published.

*What to consider for your letter:*

What is important for you to know is that we want to ensure we highlight the unique value of OT services and why we should be recognized as independent disciplines vs as a potential substitute for PT or for PT to be a substitute for OT services. **You should add in your stories and examples of when a patient may need both OT and PT services and why having OT and PT share visits with a firm limit does not support access to medically necessary care. Highlighting the consequences of lack of access to OT services is key.**

***NCOTA Concerns - No change to allowing providers in all settings to bill for services provided to adults on Medicaid:***

This proposed rule change does not include any updates to the policy regarding the ability of independent practitioner providers (IPPs) to bill Medicaid for services provided to adults over the age of 21.

Medicaid categorizes anyone who is not employed by the CDSA, a Home Health Agency, Hospital, LEA, or physician's office as an independent contractor. Occupational therapy practitioners who work in private practice settings, own a company, or work for an outpatient practice not associated with a hospital are not allowed to bill for OT services provided to adults under Medicaid.

This language is on page 44 of the proposed rule change under Attachment A, Subsection A, and as you can see on the proposed rule change, this language has not been edited.

NCOTA has already initiated advocacy on this policy prior to the publication of this proposed rule change and we have reasons to believe that NC DHHS is currently reviewing this policy and hope to see it considered formally in the future.

We want to take this opportunity to reiterate the importance of updating this policy to allow IPPs to provide services to individuals over the age of 21. This change would support the full realization of the mission of Medicaid expansion, which is to improve the health of North Carolinians and support timely access to appropriate medical services.

**Adding your perspective on why expanding who can provide services to adults is really important! This is a great area to highlight the importance of local clinics, specialty clinics, etc., when it comes to providing access to care in rural and medically underserved areas or where access to specific specialties that may not be available in the non-IPP clinics.**

**NCOTA Ongoing Advocacy - Telehealth Access for OT:**

This proposed rule does not include expanding access to telehealth services, but it is a great opportunity to remind Medicaid of the value of OT services provided via telehealth!

Overall, it is important for you to SHARE YOUR STORY! Please use the template below to help format your comments on the proposed rule. **It is incredibly important that you include your personal perspectives and experiences in this letter! Please update or remove any areas that are highlighted PRIOR to sending.**

Once you write your letter, make sure to send the template to two friends and encourage them to write in as well!