

Oklahoma Health Care Authority

The Oklahoma Health Care Authority (OHCA) values your feedback and input. It is very important that you provide your comments regarding the proposed rule change by the comment due date. Comments can be submitted on the OHCA's [Proposed Changes Blog](#).

OHCA COMMENT DUE DATE: January 2, 2024

The proposed policy changes are currently in effect as Emergency Rules and must be promulgated as Permanent Rules. The proposed policy was presented at the Tribal Consultation held on May 2, 2023, and to the Medical Advisory Committee on May 4, 2023. Additionally, this proposal will be presented at a Public Hearing scheduled for January 8, 2024, and is scheduled to be presented as Permanent Rules to the OHCA Board of Directors on January 17, 2024.

SUMMARY:

Secure Mental Health Transportation — The proposed additions will implement secure mental health transportation as a qualified benefit to SoonerCare members.

LEGAL AUTHORITY

The Oklahoma Health Care Authority Act, Section 5007 of Title 63 of Oklahoma Statutes; the Oklahoma Health Care Authority Board

RULE IMPACT STATEMENT:

STATE OF OKLAHOMA OKLAHOMA HEALTH CARE AUTHORITY

SUBJECT: Rule Impact Statement
APA WF # 23-13

A. Brief description of the purpose of the rule:

The proposed additions implement secure mental health transportation as a covered benefit to SoonerCare members. The policy additions outline what secure mental health transportation is and the specific services/requirements including but not limited to, eligible provider (driver/contractor) requirements, member program eligibility and the covered services, as well as the radius that is taken into consideration when transporting members. Finally, additions state that reimbursement for secure mental health transportation is outlined in the Oklahoma Medicaid State Plan.

B. A description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the cost of the proposed rule, and any information on cost impacts received by the agency from any private or public entities:

SoonerCare members in need of secure mental health transportation will be positively affected by the proposed rule changes.

- C. A description of the classes of persons who will benefit from the proposed rule:

The proposed rule changes to allow for secure mental health transportation will benefit SoonerCare members who utilize these services, by allowing access to these specific providers.

- D. A description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

There is no probable impact of the proposed rule upon any classes of persons or political subdivisions.

- E. The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency:

The estimated budget impact for SFY 2024 will be an increase in the total amount of \$6,153,652; with \$1,939,170 in state share. The estimated budget impact for SFY 2025 will be an increase in the total amount of \$6,153,652; with \$1,998,091 in state share. The state share will be provided by the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS).

- F. A determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:

There is no economic impact on political subdivisions.

- G. A determination of whether implementation of the proposed rule will have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

The proposed rule is not expected to have an adverse effect on small business.

- H. An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rule:

The agency has taken measures to determine that there is no less costly or non-regulatory method or less intrusive method for achieving the purpose of the proposed rule.

- I. A determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:

The proposed rule should have no adverse effect on the public health, safety, and environment.

- J. A determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented:

OHCA does not believe there is a detrimental effect on the public health and safety if the rule is not passed.

- K. The date the rule impact statement was prepared and if modified, the date modified:

Prepared: March 30, 2023

Modified: November 22, 2023

RULE TEXT:

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 34. SECURE BEHAVIORAL HEALTH TRANSPORTATION

317:30-5-347. Definitions

The following words and terms, when used in this Part shall have the following meaning, unless context clearly indicates otherwise:

"Member/eligible member" means any person eligible for SoonerCare and individuals considered to be Medicare/SoonerCare dual eligible.

"Nearest appropriate facility" means a medical facility that is generally equipped and legally permitted to provide the needed care for the illness or injury involved that is the closest in geographical proximity to the member's pickup location.

"OAC" means Oklahoma Administrative Code.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"O.S." means Oklahoma Statutes.

"Qualified Transportation Service Provider" or "QTSP" means an ODMHSAS-contracted transportation provider for members requiring transportation to a treatment facility for the purpose of examination, emergency detention, protective custody, or inpatient services in accordance with 43A O.S. § 1-110.

317:30-5-348. Program overview

(a) ODMHSAS-contracted Qualified Transportation Service Providers (QTSPs) are required to transport SoonerCare members reasonably believed to be experiencing a behavioral health crisis to and from designated sites/facilities for the purpose of examination, emergency detention, protective custody, or inpatient services in accordance with 43A O.S. § 1-110.

- (b) SoonerCare members being transported shall be afforded all rights and privileges guaranteed by the laws and Constitution of the State of Oklahoma and the United States of America. SoonerCare members have the right to be transported in a way that protects their dignity and safety.
- (c) Mechanical restraints may only be used in the transportation of members when needed in accordance with 43A O.S. § 1-110 and as defined in the QTSP's contract with ODMHSAS.

317:30-5-349. Program eligibility and covered services

- (a) SoonerCare members, both children and adults, are eligible for services when medically necessary.
- (b) A member must be reasonably believed to be experiencing a behavioral health crisis as evidenced by extreme emotional distress that includes, but is not limited to, an acute episode of mental illness and/or suicidal thoughts and/or behavior that may occur with substance use and other disorders.
- (c) Secure behavioral health transportation may be provided when medically necessary for the following:
- (1) Transportation to a facility arranged by individuals authorized by ODMHSAS, including but not limited to, hospitals and other mental health facilities;
 - (2) Facility-to-facility transports; and
 - (3) Transport of a member seeking voluntary admission to a facility.
- (d) Members must be transported to the nearest appropriate facility.
- (e) Out-of-state transports are allowable when medically necessary and may require prior approval or authorization by ODMHSAS.

317:30-5-350. Service requirements

- (a) **Eligible providers.** Service providers must be ODMHSAS-contracted Qualified Transportation Service Providers (QTSPs) and meet the Uniform Transportation Standards for QTSPs described in this Section.
- (b) **Driver requirements.** Drivers must:
- (1) Be twenty-one (21) years of age or older;
 - (2) Hold a valid driver's license issued by the State of Oklahoma;
 - (3) Undergo a criminal background check and not have been convicted of or received a deferred or probated sentence related to any felony crime, a crime involving moral turpitude or a crime of domestic violence; and not have any criminal charges pending in any court in the State of Oklahoma, another state, in tribal court or pursuant to the United States Code;
 - (4) Be able to ensure that SoonerCare members who are transported are protected by harm and injuries due to abuse, self-abuse, neglect, sexual incidents, serious injuries and other sources of immediate danger;
 - (5) Be able to provide emergency care or have an established plan to access emergency care;
 - (6) Be trained in effective communication skills with persons with mental illness, consumer rights, CPR/First Aid, and confidentiality as prescribed by ODMHSAS prior to completing transports;
 - (7) Be able to recognize and plan for problematic behaviors in a therapeutic and safe manner and complete a 16-hour Therapeutic Options Course or similar curriculum approved by ODMHSAS prior to completing transports; and
 - (8) Be familiar with the statutes and standards related to transporting members.
- (c) **Vehicle requirements.** Vehicles must:
- (1) Be well maintained and in good mechanical condition;

- (2) Have the following equipment operational:
 - (A) Air conditioner;
 - (B) Heater; and
 - (C) Chemical-type fire extinguisher, of at least a one-quart capacity, located in the same compartment of the vehicle as the driver.
- (3) Have a safety partition between the driver's area and passenger's area;
- (4) Have safety locks to prevent a member from exiting a car that is in motion;
- (5) Be equipped with, either in the car or on the driver, a two-way radio or cellular telephone that is operational during the entire period of transport; and
- (6) If transporting members in wheelchairs, be equipped with the following:
 - (A) An electrical or hydraulically-operated lift mechanism or a ramp with a non-skid surface;
 - (B) A means of securing a wheelchair to the inside of the vehicle to prevent any lateral, forward, backward, or vertical motion of the wheelchair within the vehicle;
 - (C) A rear-view mirror that enables the driver to view any passenger in a wheelchair; and
 - (D) A door at the rear of the vehicle for an emergency exit.

317:30-5-351. Authorization and reimbursement

- (a) Secure behavioral health transportation does not require a prior authorization, with the exception of out-of-state transports, which may require prior approval or authorization by ODMHSAS.
- (b) Secure behavioral health transportation is reimbursed per the methodology described in the Oklahoma Medicaid State Plan.