

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: May 9, 2023

The proposed policy is an Emergency Rule. The proposed policy will be presented at the May 2, 2023 Tribal Consultation. Additionally, this proposal is scheduled to be presented to the Medical Advisory Committee on May 4, 2023 and the OHCA Board of Directors on June 28, 2023.

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 will implement secure mental health transportation as a covered benefit to SoonerCare members. The policy additions will 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 will be taken into consideration when transporting members. Finally, additions will 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 who are 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 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

RULE TEXT:

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

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 115. SECURE MENTAL HEALTH TRANSPORTATION

317:30-5-1225. Definitions

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

"Behavioral health (BH) services" means a wide range of diagnostic, therapeutic, and rehabilitative services used in the treatment of mental illness, substance abuse, and co-occurring disorders.

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

"Nearest treatment 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 members' pickup location.

"OAC" means Oklahoma Administrative Code.

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

"O.S." means Oklahoma Statutes.

317:30-5-1226. Program overview

(a) Per Title 43A O.S. Section (§) 1-110, the ODMHSAS shall contract with qualified transportation service providers (QTSP) to transport SoonerCare members to and from designated sites/facilities for the purpose of examination, emergency detention, protective custody, and inpatient services.

(b) Transportation services shall be provided twenty-four (24) hours, seven (7) days a week by driving those SoonerCare members, who are in crisis, to the level of care needed for treatment, including occasional facility-to-facility transportation for step down care.

(c) SoonerCare members being transported shall be afforded all rights and privileges guaranteed by the laws and regulations of the State of Oklahoma. SoonerCare members have the right to be transported in a way that protects the dignity and safety of the individuals.

(d) Only commission peace officers, or other persons as allowed by federal and state law, may use physical restraints in the transportation of members as provided by Title 43A O.S. § 1-110.

317:30-5-1227. Eligible providers

(a) Driver requirements. Drivers must meet, but are not limited to, the following requirements:

- (1) Be twenty-one (21) years of age or older;
- (2) Have a valid driver's license issued by the State of Oklahoma;
- (3) Undergo a criminal background check;
- (4) Able to ensure that SoonerCare members who are transported are protected by harm and injuries;
- (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;
- (7) Be able to recognize and plan for problematic behaviors in a therapeutic and safe manner;
- (8) Be familiar with the statutes and standards related to transporting members;
- (9) Transport patients in a vehicle which:
 - (A) Is well maintained and in good mechanical condition;
 - (B) Have the following operational equipment:
 - (i) Air conditioner;
 - (ii) Heater; and
 - (iii) Chemical-type fire extinguisher, of at least a one-quart capacity, that is located in the same compartment of the vehicle as the driver.
- (10) For full driver requirements visit <https://oklahoma.gov/odmhsas.html>.

(b) Contractor requirements. Contractors must meet, but are not limited to, the following requirements:

- (1) Ensure that all drivers/vehicles meet the criteria listed in (a) of this section;
- (2) Ensure that all drivers, who are not certified as a peace officer in Oklahoma, complete a sixteen (16) hour Therapeutic Options Course that is certified by the Oklahoma Department of Mental Health and Substance Abuse Services;
- (3) Ensure that all vehicles have a safety partition between the driver's area and passenger's area;
- (4) Equip the car with safety locks to prevent a consumer from exiting a car that is in motion;
- (5) Equip the car/driver with a two-way radio or cellular telephone that is operational during the entire period of transport;
- (6) Provide drivers, who are transporting members in wheelchairs, vehicles that are 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.
- (7) Provide a monthly progress report to ODMHSAS, which includes but is not limited to:
 - (A) Number of transports conducted;
 - (B) Outcome of each transport; and

(C) Any incidences that occurred.

(8) For full contractor requirements, visit <https://oklahoma.gov/odmhsas.html>.

(c) **Non-discrimination.** All secure mental health transportation drivers and contractors may not otherwise discriminate against members on the basis of race, color, national origin, sex, sexual orientation, gender identity, health status, need for medical services, or disability and may not use any policy or practice that has the effect of discriminating on the basis of race, color or national origin, sex, sexual orientation, gender identity, or disability.

317:30-5-1228. Program eligibility and covered services

(a) Program eligibility.

(1) Members must be eligible for SoonerCare (Medicaid).

(2) A member must 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.

(b) Covered services.

(1) Secure behavioral health transportation may be provided for the following transportation:

(A) Facility-to-facility transport between facilities including but not limited to hospital, public or private mental health facilities and medical facilities.

(B) Transport to and from a facility arranged by individuals authorized by ODMHSAS.

(C) Transport of an individual seeking voluntary admission to a public or private mental health facility.

(2) Members must be transported to the nearest, appropriate facility.

(3) Long distance or out-of-state transportation are allowable when medically necessary and must be prior authorized.

(c) **Radius.** The ODMHSAS will provide secure mental health transportation, using unmarked vehicles with specially trained drivers, to the nearest treatment facility when greater than thirty (30) miles. If the nearest treatment facility is within thirty (30) miles of the law enforcement's operational headquarters, then transportation will be the responsibility of law enforcement.

(d) **Non-allowable services.** Family members or other unaccredited agents are not allowed to travel in the secure vehicle with the recipient.

317:30-5-1229. Authorization and reimbursement

(a) Secure mental health transportation does not require a prior authorization.

(b) Secure mental health transportation is reimbursed per the methodology described in the Oklahoma Medicaid State Plan.

(c) All claims and reports must be provided as outlined in this Part and at <https://oklahoma.gov/odmhsas.html>.