

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 March 7, 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.

REFERENCE: APA WF 23-11

SUMMARY:

The proposed revisions will add clarification regarding reimbursement for private duty nursing (PDN) services, including when overtime is appropriate.

LEGAL AUTHORITY:

The Oklahoma Health Care Authority Act, Section 5007 (C)(2) 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 #23-11

A. Brief description of the purpose of the rule:

The proposed revisions will add clarification regarding the reimbursement for Private Duty Nursing (PDN) services, including when overtime payment is appropriate. Further revisions will state that overtime is only available for nursing staff who are providing services to members with tracheostomies or who are medically dependent on a ventilator for life support at least six (6) hours per day. This excludes members who are on non-invasive C-PAP or Bi-PAP devices only.

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 utilize PDN services will be positively affected by the proposed rule

changes. Providers of PDN services will also be 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 overtime payment will benefit SoonerCare members who utilize PDN services and have tracheostomies or who are medically dependent on a ventilator for life support at least six (6) hours per day. The proposed rule changes to allow overtime payment to nursing staff who render services to those aforementioned members will benefit providers by allowing appropriate reimbursement for the delivery of PDN services.

- 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 economic impact and there are no fee changes associated with the rule change for the above classes of persons or any 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 2023 will be an increase in the total amount of \$2,414,603; with \$782,392 in state share. The estimated budget impact for SFY 2024 will be an increase in the total amount of \$7,243,810; with \$2,347,175 in state share.

- 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:

The proposed rule will not have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule.

- 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 will not have an adverse effect on small businesses as provided by the Oklahoma Small Business Regulatory Flexibility Act.

- 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 a positive 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:

The Agency does not anticipate any detrimental effect on the public health, safety, or environment if the proposed rule changes are not implemented.

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

Prepared: February 23, 2023
Modified: November 21, 2023

RULE TEXT:

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

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALITIES

PART 62. PRIVATE DUTY NURSING

317:30-5-561. Private duty nursing (PDN) payment rates

(a) All PDN services, including overtime, are reimbursed per the methodology described in the Oklahoma Medicaid State Plan.

(b) Overtime payment for PDN services is only available for nursing staff who are providing services to members with tracheostomies or who are medically dependent on a ventilator for life support at least six (6) hours per day. This excludes members who are on non-invasive C-PAP or Bi-PAP devices only.

(c) In accordance with the Department of Fair Labor Standards Act, a worker must receive overtime pay for every hour that is worked over forty (40) hours in a workweek. A workweek is defined as any set seven (7) day period.