

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE
SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES
PART 61. HOME HEALTH AGENCIES

317:30-5-550. Paid Family Caregiver

Paid Family Caregiver (PFC) is a service that allows a family member of the qualifying child, i.e., parent, parent-in-law, sibling, grandparent, guardian, an individual related by blood and/or marriage, and any other individual with a close association that is the equivalent of a family relationship; to work for a home care agency, as a complex caregiver, to provide home care services to qualified children under the age of twenty-one (21). Individuals eligible to provide PFC services shall be employed by the home health agency as a complex caregiver. PFC services are provided:

- (1) In the member's primary residence, unless it is medically necessary for the complex caregiver to accompany the individual in the community.
- (2) In accordance with the Oklahoma Nursing Practice Act, § 567.3a, complex caregiver may provide care to qualifying members under the direction and supervision of a Registered Nurse or Licensed Practical Nurse, through a home care agency.
 - (A) The complex caregiver is prohibited from driving a vehicle during transportation.
 - (B) PFC services are not available for non-routine extended home absences unrelated to medically necessary treatment or medical care. [Refer to Oklahoma Administrative Code 317:30-5-558(4) and (13)].
 - (C) PFC hours authorized by OHCA and/or SoonerSelect may total up to forty (40) hours per week and are authorized concurrently with any PDN hours. PFC hours are not authorized in addition to PDN hours.

317:30-5-551. Eligible providers

(a) A home health agency that elects to employ and train complex caregivers and be reimbursed by SoonerCare for paid family caregiver (PFC) services must meet the following requirements prior to providing services to eligible SoonerCare members:

- (1) The agency must be fully contracted with OHCA as a provider; and,
 - (2) The agency must meet the requirements of Oklahoma Administrative Code (OAC) 317:30-5-545; and,
 - (3) The agency must be licensed by the Oklahoma State Health Department (OSDH) as a home care agency.
- (b) The complex caregiver must meet the following requirements:
- (1) must be at least eighteen (18) years of age;
 - (2) must pass criminal and abuse registry background checks.
- (c) The complex caregiver, employed by the agency, must receive eighty (80) hours of training, competency evaluation, and other qualification criteria as a complex caregiver, including but not limited to:
- (1) Agency New Employee Orientation;
 - (2) Communicating with the Care Team;
 - (3) Documentation;

- (4) Safety Care;
- (5) Medications;
- (6) Respiratory Care;
- (7) Neurological care;
- (8) Nutrition;
- (9) Genitourinary care;
- (10) Integumentary care; and
- (11) Social Determinants of Health

317:30-5-552. Coverage by category

- (a) **Adults.** SoonerCare does not cover adults [twenty-one (21) years of age and over] for paid family caregivers.
- (b) **Children.** SoonerCare covers children [under twenty-one (21) years of age] if:
 - (1) The member is eligible for SoonerCare; and
 - (2) The Oklahoma Health Care Authority (OHCA) determines the service is medically necessary. Medical necessity is determined in accordance with Oklahoma Administrative Code (OAC) 317:30-5-560.1.

317:30-5-553. Paid Family Caregiver (PFC) coverage limitations

Coverage limitations at OAC 317:30-5-558 are applicable to all PFC services.

317:30-5-554. How Paid Family Caregiver (PFC) services are authorized

PFC services may be initiated after completion of steps outlined in OAC 317:30-5-559.

317:30-5-554.1. Treatment plan

- (a) The treatment plan for a member receiving paid family caregiver services must meet requirements outlined in OAC 317:30-5-560.
- (b) The treatment plan will be incorporated into the treatment plan request for members receiving PFC services.

317:30-5-554.2. Prior authorization requirements

Prior authorization requirements outlined in OAC 317:30-5-560.1 applicable to paid family caregiver services.

317:30-5-554.3. Record documentation

Documentation for paid family caregiver services must include the caregiver's credentials and meet all other requirements listed at OAC 317:30-5-560.2.

PART 62. PRIVATE DUTY NURSING

317:30-5-555. Private Duty Nursing (PDN)

PDN is medically necessary care provided on a regular basis by a licensed practical nurse or registered nurse. During any given period of service, a nurse may only provide care to the eligible member. PDN is the level of care that would routinely be provided by the nursing staff of a hospital or skilled nursing facility. PDN services are provided:

(1) In the member's primary residence, unless it is medically necessary for a nurse to accompany the individual in the community.

(A) The individual's place of residence is wherever the individual lives, whether the residence is the individual's own dwelling, a relative's home, or other type of living arrangement. The place of residence cannot include a hospital, nursing facility, or intermediate care facility for individuals with intellectual disabilities (ICF/IID).

(B) The place of service in the community cannot include the residence or business location of the provider of PDN services unless the provider of PDN is a live-in caregiver.

(2) To assist during transportation to routine, Medicaid compensable health care appointments and/or to the nearest appropriate emergency room.

(A) The private duty nurse may not drive the vehicle during transportation.

(B) PDN services are not available for non-routine extended home absences unrelated to medically necessary treatment or medical care. [Refer to Oklahoma Administrative Code 317:30-5-558(4) and (13)].

317:30-5-556. Eligible providers

(a) A home health agency that desires to be reimbursed by SoonerCare or SoonerSelect for private duty nursing (PDN) must meet the following requirements prior to providing services to eligible SoonerCare members:

(1) The agency must be fully contracted with OHCA as a provider; and,

(2) The agency must meet the requirements of Oklahoma Administrative Code (OAC) 317:30-5-545, and it must be licensed by the Oklahoma State Health Department (OSDH) as a home care agency.

(b) The provider of PDN services, within the agency, must be a licensed practical nurse or a registered nurse who is currently licensed and in good standing in the state in which services are provided.

317:30-5-557. Coverage by category

(a) **Adults.** SoonerCare does not cover adults [twenty-one (21) years of age and over] for private duty nursing (PDN) with the exception of subsection (c).

(b) **Children.** SoonerCare or SoonerSelect does cover children [under twenty-one (21) years of age] if:

(1) The member is eligible for SoonerCare or SoonerSelect; and

(2) The Oklahoma Health Care Authority (OHCA), or OHCA's Contracted Entity, in its discretion, deems the services medically necessary. Medical necessity is determined in accordance with Oklahoma Administrative Code (OAC) 317:30-5-560.1.

(c) **Individuals eligible for Part B of Medicare.** Payment is made utilizing ~~the~~ SoonerCare allowable for comparable services.

(d) **1915(c) home and community-based services (HCBS) waivers.** If private duty nursing services are provided, they will be defined within each waiver and must be prior authorized.

317:30-5-558. Private duty nursing (PDN) coverage limitations

The following provisions apply to all PDN services and provide coverage limitations:

- (1) All services must be prior authorized to receive payment from the Oklahoma Health Care Authority (OHCA), or through SoonerSelect. Prior authorization means authorization in advance of services provided in accordance with Oklahoma Administrative Code (OAC) 317:30-3-31 and 317:30-5-560.1;
- (2) ~~A treatment plan must be completed by an eligible PDN provider before requesting prior authorization and must be updated at least annually and~~ Recertification of a treatment plan is required at least every 60 days to request PDN services in accordance with OAC 317:30-5-560.1 and must:
 - (A) be signed by the physician [medical doctor (MD), or doctor of osteopathy, (DO)], a physician assistant (PA), or advanced practice registered nurse (APRN)]; and
 - (B) include documentation for Private Duty Nursing and/or Paid Family Caregiver services covering the previous ten (10) days for ongoing record review.
- (3) An assessment by an OHCA ~~care management~~ or SoonerSelect nurse is required prior to the authorization for services. The assessment will be conducted by the OHCA through one
 - (1) of the following:
 - (A) **Telephone.** Audio-only telephonic communication;
 - (B) **Virtually.** Virtual visits are the standard method of assessment. This is a means to use virtual technology to collect medical and other forms of health data for the purposes of assessment and recommendation; or
 - (C) **Face-to-face.** In person face-to-face assessments are completed when determined by OHCA to be the most appropriate assessment method. A face-to-face assessment is not completed at the parent or caregiver's request.
- (4) Care in excess of the designated hours per week granted in the prior authorization is not SoonerCare compensable. Prior-authorized but unused service hours cannot be accumulated for use at a future date or time. If such hours or services are provided, they are not SoonerCare or SoonerSelect compensable.
- (5) Any medically necessary PDN care provided outside of the home must be counted in and cannot exceed the number of hours requested on the treatment plan and approved by OHCA.
- (6) PDN services do not include office time or administrative time in providing the service. The time billed is for direct nursing services only.
- (7) Staff must be engaged in purposeful activity that directly benefits the member receiving services. Staff must be physically able and mentally alert to carry out the duties of the job. At no time will OHCA or SoonerSelect compensate an organization for nursing staff time when sleeping.
- (8) OHCA and SoonerSelect will not approve PDN services if all health and safety issues cannot be met in the setting in which services are provided.
- (9) A provider must not misrepresent or omit facts in a treatment plan.
- (10) It is outside the scope of coverage to deliver care in a manner outside of the treatment plan or to deliver units over the authorized units of care.
- (11) PDN is not authorized in excess of 112 hours per week, not exceeding sixteen (16) hours per day. There may be approval for additional hours for a period not to exceed thirty (30) days, if:
 - (A) The member has an acute episode that would otherwise require hospitalization or immediately following a hospital stay; or

- (B) The primary caregiver is temporarily and involuntarily unable to provide care.
- (C) The OHCA or the SoonerSelect Contracted Entity has discretion and the final authority to approve or deny any additional PDN hours and will take into consideration that the additional hours are not to be a substitute for institutionalized care.
- (12) Family and/or caregivers and/or guardians (hereinafter, "caregivers") are required to provide some of the nursing care to the member without compensation. PDN services shall not be provided solely to allow the member's caregiver to work or go to school, nor solely to allow respite for the caregiver.
- (13) PDN services will not be approved for overnight trips away from the member's primary residence that are unrelated to medically necessary treatment or medical care.
 - (A) For a member to receive Medicaid-reimbursable PDN services on an overnight trip that is related to medically necessary treatment or medical care, all provisions of this Part must be met. If said trip occurs out of state, OAC 317:30-3-89 through 317:30-3-92 must also be met.
 - (B) In instances in which the member's family is temporarily absent due to vacations, any additional PDN hours must be paid for by the family, or provided by other trained family members without SoonerCare or SoonerSelect reimbursement.
- (14) PDN services will not be approved when services are reimbursed or reimbursable by other insurance, other governmental programs, or Medicaid program services that the member receives or is eligible to receive. For example, if a member receives Medicaid-reimbursable PDN services pursuant to an Individualized Education Program (IEP) in a public school, then those PDN school hours will be counted in the member's daily allotment of PDN services.

317:30-5-559. How Private Duty Nursing (PDN) services are authorized

PDN services may be initiated after completion of the following steps:

- (1) A treatment plan for the patient has been created by an eligible PDN provider per Oklahoma Administrative Code (OAC) 317:30-5-560;
- (2) A prior authorization request is submitted with the appropriate Oklahoma Health Care Authority (OHCA) or to the SoonerSelect Contracted Entity with the required data elements and the treatment plan;
- (3) An assessment (telephonic, virtual, or face-to-face) has been conducted by an OHCA care management or SoonerSelect nurse, per OAC 317:30-5-558 (3); and
- (4) An OHCA or SoonerSelect physician, or his or her designee, has determined the medical necessity of the service, including but not limited to, scoring the member's needs on the PDN assessment.

317:30-5-560.1. Prior authorization requirements

- (a) ~~Authorizations~~ For children ages zero to three (0-3), authorizations are provided for a maximum period of six (6) months. For children ages three to twenty (3-20), authorizations are provided for a maximum period of one (1) year.
- (b) Authorizations require:
 - (1) A treatment plan for the member;

- (2) An assessment (telephonic, virtual, or face-to-face) has been conducted by an Oklahoma Health Care Authority (OHCA) care management nurse, per Oklahoma Administrative Code (OAC) 317:30-5-558 (2); and
- (3) An OHCA or SoonerSelect physician, or his or her designee, to determine medical necessity including use of the OHCA Private Duty Nursing (PDN) assessment.
- (c) The number of hours authorized may differ from the hours requested on the treatment plan based on the review by an OHCA or SoonerSelect physician.
- (d) If the member's condition necessitates a change in the treatment plan, the provider must request a new prior authorization.
- (e) Changes in the treatment plan may necessitate another assessment (telephonic, virtual, or face-to-face) by an OHCA care management nurse.