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 6, 2025

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 September 3, 2024 Tribal Consultation and the September 12, 2024 Medical Advisory Committee meeting. Additionally, this proposal will be presented at a Public Hearing scheduled for January 6, 2025, and is scheduled to be presented to the OHCA Board of Directors on January 15, 2025.

SUMMARY: Oklahoma Health Care Authority is proposing policy to establish criteria for an add-on rate for nursing facilities that serve tracheostomy patients who meet the high-acuity criteria. The rate will help to cover the high cost associated with this type of care and is determined using existing cost data based on four components: direct care and allied staff costs, social and support staff costs, cost of drugs and medical supplies, and general and administrative costs.

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 # 24-22

A. Brief description of the purpose of the rule:

The proposed rule establishes a new add-on rate for nursing facilities serving high-acuity tracheostomy patients. The rate will help to cover the high cost associated with this type of care.

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:

The proposed rule changes may affect SoonerCare members who have a tracheostomy and require an increased level of care, as well as the providers who serve those members. This rule change should not place any cost burden on private or public entities. No information on any cost impacts were received from any entity.

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

The proposed rule changes will benefit SoonerCare members who have a tracheostomy and require an increased level of care, as well as the providers who serve those members. The proposed rule changes have the potential to improve access to care and health equity.

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 affect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency:

The estimated total cost for SFY 2026 is $2,076,299 ($1,411,676 in federal share and $664,623 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 changes will not have an economic impact on any political subdivision or require their cooperation in implementing or enforcing the rule changes.

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 agency does not anticipate that the proposed rule changes will have an adverse effect on small businesses.

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 are no other legal methods to achieve the purpose of the proposed rule. Measures included a formal public comment period and tribal consultation.

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 or 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 and safety if the proposed rule is not passed.

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

Prepared date: November 20, 2024

RULE TEXT:

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY

CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 9. LONG TERM CARE FACILITIES

317:30-5-133.3. Nursing home ventilator-dependent and tracheostomy care services

(a) Admission is limited to ventilator-dependent and/or ~~qualified~~high-acuity tracheostomy residents.

(b) The ventilator-dependent resident and/or ~~qualified~~high-acuity tracheostomy resident must meet the current nursing facility level of care criteria. (Refer to OAC 317:30-5-123.)

(c) All criteria must be present in order for a resident to be considered ventilator-dependent:

(1) The resident is not able to breathe without a ~~volume~~ventilator with a backup.

(2) The resident must be medically dependent on a ventilator for life support six (6) hours per day, seven (7) days per week.

(3) The resident has a tracheostomy.

(4) The resident requires daily respiratory therapy intervention (i.e., oxygen therapy, tracheostomy care, physiotherapy or deep suctioning). These services must be available twenty four (24) hours a day.

(5) The resident must be medically stable and not require acute care services. A Registered Nurse or Licensed Practical Nurse must be readily available and have primary responsibility of the unit at all times.

(d) The resident will also be considered ventilator-dependent if all of the above requirements were met at admission but the resident is in the process of being weaned from the ventilator. This excludes residents who are on C-PAP or Bi-PAP devices only.

(e) All criteria must be present in order for a resident to be considered ~~as~~a high-acuity tracheostomy ~~care qualified~~resident:

(1) The resident is not able to breathe without the use of a tracheostomy.

(2) The resident requires daily respiratory therapy intervention (i.e., oxygen therapy, tracheostomy care, chest physiotherapy, or deep suctioning). These services must be available twenty four (24) hours a day.

(3) A Registered Nurse or Licensed Practical Nurse must be readily available and have primary responsibility of the unit.

(4) The resident sees a pulmonologist as needed and a respiratory therapist at least once every other week, with a respiratory therapist available on call twenty four (24) hours a day.

(f) In addition to the requirements in paragraph (e), high-acuity tracheostomy residents will need to meet at least one of the listed criteria below:

(1) The resident has a Brief Interview for Mental Status (BIMS) Interview score between zero and twelve (0-12) (moderately to severely impaired).

(2) The resident is nonverbal, comatose, or in a vegetative state.

(3) The resident has a contractures diagnosis that results in limited mobility.

(4) The resident requires total dependency from staff with all aspects of daily care.

(5) The resident is unable to suction themselves.

(6) The resident requires tracheostomy deep suctioning at an increased frequency of at least ten (10) times daily due to thick, copious amounts of secretions.

(7) The resident is unable to clear their own secretions and protect their airway.

(8) The resident has been diagnosed with a progressive neurological disorder that results in muscle weakness; this includes, but is not limited to, Amyotrophic Lateral Sclerosis (ALS), Multiple Sclerosis (MS), Alzheimer's, head injuries, or Cerebrovascular Accident (CVA).

(9) The resident requires five (5) L/min of oxygen or greater than 40% Fraction of Inspired Oxygen (FIO2).

(10) The resident requires breathing treatments that are at an increased frequency of three or more times daily.

(11) The resident has an artificial opening in the neck for the tracheostomy, and an artificial opening in the abdomen for a gastrostomy tube.

(12) The resident has multiple co-morbidities, resulting in demonstrative complications.

~~(f)~~(g) Not withstanding the foregoing, a ventilator-dependent or ~~qualified~~high-acuity tracheostomy resident who is in the process of being weaned from ventilator dependence or requiring qualified tracheostomy treatment shall continue to be considered a qualified resident until the weaning process is completed.