

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: February 18, 2020

The proposed policy is a Permanent Rule. The proposed policy was presented at the January 7, 2020 Tribal Consultation. Additionally, this proposed change will be presented at a Public Hearing scheduled for February 19, 2020. This proposal is scheduled to be presented to the Medical Advisory Committee on March 12, 2020 and the OHCA Board of Directors on March 18, 2020.

Reference: APA WF 19-27

SUMMARY:

Ground Emergency Medical Transportation (GEMT) Supplemental Payment Program – The proposed rule changes establish rules consistent with the Oklahoma State Plan which outlines the GEMT Supplemental Payment Program.

LEGAL AUTHORITY

The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; the Oklahoma Health Care Authority Board; 42 C.F.R. § 414.605; 42 C.F.R. § 414.610 and 63 O.S. § 3242.

RULE IMPACT STATEMENT:

**STATE OF OKLAHOMA
OKLAHOMA HEALTH CARE AUTHORITY**

TO: Maria Maule
Legal Services

FROM: Harvey Reynolds
Federal and State Authorities

SUBJECT: Rule Impact Statement
APA WF # 19-27

A. Brief description of the purpose of the rule:

The proposed rule changes establish rules consistent with the Oklahoma Medicaid State Plan which outlines the Ground

Emergency Medical Transportation (GEMT) Supplemental Payment Program. The GEMT program is a voluntary program which provides supplemental payments to eligible providers for specific allowable and uncompensated costs incurred for providing ground ambulance services to SoonerCare recipients and certified on an annual cost report. Payments are made in the form of an interim payment and a later reconciliation payment (i.e. settle-up payment).

The GEMT Supplemental Payment Program is designed to assist certain providers of ground ambulance services to improve the availability and quality of service provided, thus potentially reducing disability, permanent damage and/or death when acute illness or injury occurs, especially in rural areas.

- 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:

Eligible ground emergency ambulance providers and the communities they serve will be affected by the proposed rule. This rule 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 change will benefit eligible ground emergency ambulance providers by creating a new reimbursement methodology. Additionally, the communities served will benefit from this proposed change by potentially increasing access to GEMT 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 economic impact and there are no fee changes associated with the rule change for the above classes of persons or any political subdivision.

- 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:

There is no estimated federal budget impact for federal fiscal year (FFY) 2019. The estimated federal budget impact for FFY 2020 is \$17,258,031. It is estimated that the revisions will be budget neutral for the State as participating GEMT providers will bear the cost of providing the state share for the program, as well as any administrative costs.

- 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 a positive effect on the public health, safety or environment in Oklahoma communities by improving the availability and quality of service. The proposed rule is not designed to reduce significant risks to 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, safety or environment if the proposed rule is not implemented.

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

Prepared date: October 25, 2019

RULE TEXT:

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

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 33. TRANSPORTATION BY AMBULANCE

317:30-5-344. Ground Emergency Medical Transportation (GEMT) Supplemental Payment Program

(a) Definitions. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "Advanced life support" means emergency medical care and services which are provided by a licensed ground ambulance services provider in accordance with Oklahoma Administrative Code (OAC) 310:641, to include, but not limited to, advanced airway management, intravenous therapy, administration of drugs and other medicinal preparations, and other invasive medical procedures and specified techniques that are limited to the Intermediate, Advanced EMT, and Paramedic scope of practice in accordance with OAC 310:641, Subchapter 5.

(2) "Allowable costs" means an expenditure that complies with the regulatory principles as listed in Title 2 of the Code of Federal Regulations (C.F.R.), Section 200.

(3) "Basic life support" means emergency medical care and services which are provided by a licensed ground ambulance service in accordance with OAC 310:641 to include, but not

limited to, cardiopulmonary resuscitation procedures (CPR), hemorrhage control, stabilization of actual or possible skeletal injuries, spinal immobilization, extrication, transportation, and other non-invasive medical care.

(4) "**Contracts with a local government**" means contracts pursuant to a county plan for ambulance and emergency medical services with a:

(A) City, county, or an Indian tribe as defined in Section 4 of the Indian Self-Determination and Education Assistance Act; or

(B) Local service district, including, but not limited to, a rural fire protection district, or all administrative subdivisions of such city, county, or local service district.

(5) "**Eligible GEMT provider**" means a GEMT provider that meets all eligibility requirements in OAC 317:30-5-344 and the Oklahoma Medicaid State Plan (State Plan).

(6) "**Federal financial participation (FFP)**" means the portion of medical assistance expenditures for emergency medical services that are paid or reimbursed by the Centers for Medicare and Medicaid Services (CMS) in accordance with the State Plan.

(7) "**GEMT services**" means the act of transporting an individual by ground from any point of origin to the nearest medical facility capable of meeting the emergency medical needs of the patient, as well as the advanced, limited-advanced, and basic life support services provided to an individual by eligible GEMT providers before or during the act of transportation.

(8) "**Governmental unit**" means the entire state, local, or federally-recognized Indian tribal government, including any component thereof.

(9) "**Publically owned or operated**" means a unit of government that is a state, a city, a county, a special purpose district, or other governmental unit in a state that has taxing authority, has direct access to tax revenues, or is an Indian tribe as defined in Section 4 of the Indian Self-Determination and Education Assistance Act.

(b) **Purpose.** In accordance with 63 Oklahoma Statutes (O.S.) § 3242, the GEMT Supplemental Payment Program is a voluntary program which makes supplemental payments above the Medicaid fee schedule reimbursement rate to eligible GEMT providers for specific allowable, certified, and uncompensated costs incurred for providing GEMT Services to SoonerCare members.

(b) **Provider eligibility.** To be eligible for supplemental payments, a GEMT provider must meet all of the following requirements:

(1) Be enrolled as an Oklahoma SoonerCare provider for the time period claimed on its annual cost report;

(2) Provide ground ambulance transportation services to SoonerCare members;

(3) Be classified as a governmental unit provider in accordance with 2 C.F.R. 200;

(4) Comply with all applicable state and federal law;

(5) Be an organization that:

(A) Is publicly owned or operated; or

(B) Is under contract with a local government unit. A copy of any such contract must be submitted to the Oklahoma Health Care Authority (OHCA) simultaneous with the submission of the GEMT provider's annual cost report; and

(6) Timely submit all relevant information requested by the OHCA, in the format as prescribed by the OHCA, including, but not limited to, a certification that conforms with 42 C.F.R. § 433.51 that certifies that the claimed expenditures for GEMT Services are eligible for FFP.

(d) Allowable costs.

(1) Supplemental payments provided by this program are available only for the specific allowable costs per medical transport of a SoonerCare member that are in excess of the reimbursement paid by Medicaid and all other insurers and/or third-party resources.

(2) Total reimbursement from SoonerCare, including the supplemental payment, when combined with all other sources of reimbursement, must not exceed one-hundred percent (100%) of actual costs of providing services to SoonerCare members.

(e) Payments and recoupment.

(1) The OHCA will make annual supplemental payments after the conclusion of each state fiscal year (SFY) and in accordance with the methodology outlined in the State Plan. The payments will be made in the form of an interim payment and a later reconciliation payment (i.e., settle-up payment). The payments are not an increase to current fee-for-service (FFS) reimbursement rates.

(2) The interim supplemental payment will be equal to seventy-five percent (75%) of the total allowable costs as indicated on the annual approved cost report.

(3) The reconciliation payment will be computed by the OHCA based on the difference between the interim supplemental payment and total allowable costs from the approved cost report.

(4) Any excess payments determined in the reconciliation process are recouped and the federal share is returned to CMS.

(5) Cost reconciliation and cost settlement processes will be completed within twelve (12) months of the end of the cost reporting period.

(f) Reporting requirements.

(1) Eligible GEMT providers will:

(A) Submit a CMS-approved cost report annually, no later than ninety (90) days after the close of the SFY, on a form approved by the OHCA, unless a provider has made a written request for an extension and such request is granted by the OHCA;

(i) After the ninety (90) day deadline, an extension of no more than fifteen (15) calendar days can be granted; and

(ii) Extensions of time shall be requested by a letter addressed to the Finance Division. Any such request must be received by October 1, and must explain the good faith reason for the extension. OHCA shall provide a written notice of any denial of a request for an extension, which shall become effective on the date it is mailed.

(B) Provide supporting documentation simultaneous with the cost report, as required by the OHCA;

(C) Keep, maintain, and have readily retrievable, such records as specified by the OHCA to fully disclose reimbursement amounts to which the eligible governmental entity is entitled, and any other records required by CMS; and

(D) Comply with the allowable cost requirements provided in 42 C.F.R. Part 413, 2 C.F.R. Part 200, and federal Medicaid non-institutional reimbursement policy.

(2) Penalties for false statements or misrepresentations made by or on behalf of the provider are established by 42 U.S.C. Section 1320a-7b which states, in part, "Whoever... (2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to such benefit or payment...shall (i) in the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the furnishing (by that person) of items or services for which payment is or may be under the program, be guilty of a felony and upon conviction thereof fined not more than \$100,000 or imprisoned for not more than 10 years or both, or (ii) in the case of such a statement, representation, concealment, failure, conversion, or provision of counsel or assistance by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than \$20,000 or imprisoned for not more than one (1) year, or both."

(g) **Agency responsibilities.** The OHCA will:

(1) Submit claims to CMS based on total computable certified expenditures for GEMT services provided, that are allowable and in compliance with federal laws and regulations and Medicaid non-institutional reimbursement policy;

(2) Submit on an annual basis, any necessary materials to the

federal government to provide assurances that claims will include only those expenditures that are allowable under federal law; and

(3) Complete the audit and final reconciliation process of the interim cost settlement payments for the services provided within twelve (12) months of the postmark date of the cost report and conduct on-site audits as necessary.

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