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Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register.* In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 490. OKLAHOMA STATE BOARD OF EXAMINERS FOR LONG TERM CARE ADMINISTRATORS
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #08-577]

RULEMAKING ACTION:

Notice of Proposed EMERGENCY Rulemaking

PROPOSED RULES:

Subchapter 5. Investigative Procedures

490:1-5-3. Investigation of complaints [AMENDED]

SUMMARY:

The purpose of this proposed rulemaking action is to allow the Board additional discretion in fulfilling certain of its duties as delineated within §63-330.58 ("Duties of the Board"). Specifically, Paragraphs 5. and 6. of this Section read as follows:

"The Oklahoma State Board of Examiners for Long-Term Care Administrators shall:

5. Receive, investigate, and take appropriate action with respect to any charge or complaint filed with the Board?"

6. Receive, investigate, and take appropriate action on any complaint received by the Board from the Department of Human Services?"

The present language contained within the Rule limits the Board to using the services of its own staff to perform necessary investigations or it may utilize a contract or agreement with another State agency to perform these investigations. The Board has difficulty recruiting/retaining qualified professionals to serve as part-time, investigative staff; is limited by the number of hours of investigative service staff can work; and is limited in its ability to contract with other State agencies for qualified investigative services.

The Board hired two (2) part-time qualified "990-hour" investigative staff, one of whom was a retired State employee, the other was not. One individual resigned for health reasons. The other individual, because he is a pre-Social Security retired State employee, is additionally limited in his ability to conduct investigations, since his annual earnings from the Board cannot exceed the dollar ($) limit imposed by the Internal Revenue Service (presently around $13,500 per year). The Board has begun looking for an additional part-time investigator, but individuals with the necessary training and experience are difficult to find.

While individual staff within other State agencies perform an investigatory function related to a business or profession, it is often times unrelated to healthcare, unrelated to the provision of healthcare services, or is unrelated to the administration and operation of health care facilities or programs. Those State agencies that have expertise in conducting health-related investigations or investigations of other health care facilities or professionals often times cannot recruit/retain an adequate number of staff to meet their own internal needs, and, therefore, are unable to contract with the Board to assist in the performance of required Board investigations.

Due to the constraints within the present Rule language, the Board is finding it difficult to satisfy its statutory obligation to conduct proper investigations of all complaints or charges levied against licensed long term care facility administrators.

Therefore, by being able to contract with qualified individuals or qualified private businesses for purposes of conducting necessary investigations, the Board would have other avenues available that it could utilize to fulfill its statutory obligations in those situations when such investigations cannot be performed by Board staff or through contracts or agreements with other qualified State Agencies.

AUTHORITY:

Oklahoma State Board of Examiners for Long Term Care Administrators, Title 63 O.S. Section 330.51 et seq.

ABBREVIATED COMMENT PERIOD:

April 07, 2008, through April 23, 2008. Interested persons may informally discuss the proposed rules with Board Members or Board staff; or before April 18, 2008, may submit written comments to Roger Lanier, Ph.D., Executive Director, Oklahoma State Board of Examiners for Long Term Care Administrators, 2401 N.W. 23rd Street, Suite 62, Oklahoma City, OK 73107; or before April 18, 2008, may send comments via electronic mail to osbeltca@osbeltca.ok.gov; or may request to present written or oral views at the hearing.

PUBLIC HEARING:

The public hearing will be part of the Regular Meeting of the Oklahoma State Board of Examiners for Long Term Care Administrators, scheduled to begin at 9:00 a.m. on April 23, 2008, in the Activities Room, Shepherd Mall Office Center, 2401 N.W. 23rd Street, Oklahoma City, OK 73107.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules.

Business entities may submit this information, in writing before April 18, 2008, to Roger Lanier, Ph.D.,

Executive Director, Oklahoma State Board of Examiners for Long Term Care Administrators, 2401 N.W. 23rd Street, Suite 62, Oklahoma City, OK 73107; or before April 18, 2008, may send this information via electronic mail to osbeltca@osbeltca.ok.gov.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review by the public between the hours 8:30 a.m. and 5:00 p.m., Monday through Friday, at the Board office, or an electronic request may be made to osbeltca@osbeltca.ok.gov. These rules may also be viewed from the Board's website at http://www.ok.gov/osbeltca.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a Rule Impact Statement (RIS) has been prepared and may be obtained from the Oklahoma State Board of Examiners for Long Term Care Administrators (OSBELTCA) at the above address, beginning April 07, 2008.

CONTACT PERSON:

Roger Lanier, Ph.D., Executive Director, Oklahoma State Board of Examiners for Long Term Care Administrators. Tel: (405) 522-1624.

[OAR Docket #08-577; filed 4-7-08]

Submissions for Review

Within 10 calendar days after adoption by an agency of a proposed PERMANENT rulemaking action, the agency must submit the proposed rules to the Governor and the Legislature for review. In addition, the agency must publish in the *Register* a "statement" that the rules have been submitted for gubernatorial/legislative review.

For additional information on submissions for gubernatorial/legislative review, see 75 O.S., Section 303.1, 303.2, and 308.

TITLE 75. ATTORNEY GENERAL CHAPTER 1. ADMINISTRATION

[OAR Docket #08-472]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 1. Administration [AMENDED]
SUBMITTED TO GOVERNOR:
March 27, 2008
SUBMITTED TO HOUSE:
March 27, 2008
SUBMITTED TO SENATE:
March 27, 2008

[OAR Docket #08-472; filed 3-28-08]

TITLE 75. ATTORNEY GENERAL CHAPTER 15. STANDARDS AND CRITERIA FOR DOMESTIC VIOLENCE, SEXUAL ASSAULT AND BATTERERS INTERVENTION PROGRAMS

[OAR Docket #08-473]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 15. Standards and Criteria For Domestic Violence, Sexual Assault and Batterers Intervention Programs [AMENDED]
SUBMITTED TO GOVERNOR:
March 27, 2008
SUBMITTED TO HOUSE:
March 27, 2008
SUBMITTED TO SENATE:
March 27, 2008

[OAR Docket #08-473; filed 3-28-08]

TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL CHAPTER 10. FLEXIBLE BENEFITS PLAN

[OAR Docket #08-569]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
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Subchapter 3. Flexible Benefits Plan Provisions
87:10-3-2. Benefit plans offered as part of the flexible benefits plan [AMENDED]
Subchapter 13. Eligibility Requirements
87:10-13-4. Elections and changes [AMENDED]
Subchapter 17. Benefit Plan Election
87:10-17-3. Employee election of benefit plans [AMENDED]
Subchapter 19. Benefit Allowance
87:10-19-1. Flexible benefit allowance [AMENDED]
87:10-19-2. Costs in excess of flexible benefits allowance [AMENDED]
Subchapter 27. Health Care Reimbursement Account Option
87:10-27-2. Definitions [AMENDED]
87:10-27-3. Requirements for eligibility [AMENDED]
87:10-27-14. Health savings accounts distributions [NEW]
Subchapter 31. Coverage Continuation and Refunds
87:10-31-2. Refund for over deductions [AMENDED]
SUBMITTED TO GOVERNOR:
April 4, 2008
SUBMITTED TO HOUSE:
April 4, 2008
SUBMITTED TO SENATE:
April 4, 2008

[OAR Docket #08-569; filed 4-4-08]

TITLE 120. CAPITOL-MEDICAL CENTER IMPROVEMENT AND ZONING COMMISSION CHAPTER 10. ZONING REGULATIONS FOR CAPITOL-MEDICAL CENTER IMPROVEMENT AND ZONING DISTRICT

[OAR Docket #08-566]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
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120:10-1-2. Citation [AMENDED]
120:10-1-3. Definitions [AMENDED]
120:10-1-4. Nature and application [AMENDED]
120:10-1-5. Intent of zoning plan [AMENDED]

120:10-1-6. Regulations of use, height, area, yards and open space [AMENDED]
120:10-1-7. Capitol-Medical Center Improvement and Zoning District Land Use Plan [AMENDED]
120:10-1-8. Zoning districts [AMENDED]
120:10-1-9. Interpretation of district boundaries [AMENDED]
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120:10-5-14. Mixed Use District-1, Health Center Commercial [NEW]
120:10-5-15. Mixed Use District-2, Limited Health Center Commercial [NEW]
Subchapter 11. Historical Preservation and Landmark Board of Review
120:10-11-4. Board of Review meetings, rules, quorum and duties of Director [AMENDED]
Subchapter 15. Signage ~~Guidelines~~ Regulations [AMENDED]
120:10-15-1. Purpose [AMENDED]
120:10-15-2. Applicability [AMENDED]
120:10-15-3. Definitions [AMENDED]
120:10-15-4. Principal Signage [AMENDED]
120:10-15-5. Materials [AMENDED]
120:10-15-6. Illumination [AMENDED]
120:10-15-7. Secondary Signage [AMENDED]
120:10-15-8. Specialty Signage [AMENDED]
120:10-15-9. Temporary Signage [AMENDED]
120:10-15-10. Prohibited Signage [AMENDED]
120:10-15-11. Limitation Per Site [AMENDED]
120:10-15-12. Maintenance Provision [AMENDED]
120:10-15-13. Landscaping Requirement [AMENDED]
120:10-15-14. Legal Non-conforming signs [AMENDED]
120:10-15-15. Building Permit Required [AMENDED]

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[OAR Docket #08-566; filed 4-3-08]

TITLE 135. COMMISSION ON CHILDREN AND YOUTH
CHAPTER 10. PROGRAMS, BOARDS, AND COUNCILS: OPERATION AND ADMINISTRATION

[OAR Docket #08-561]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
Subchapter 23. Interagency Child Abuse Prevention Task Force [NEW]
135:10-23-1 [NEW]
135:10-23-2 [NEW]
135:10-23-3 [NEW]
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[OAR Docket #08-561; filed 4-3-08]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 30. PLUMBING INDUSTRY REGULATIONS

[OAR Docket #08-543]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review of permanent rules
RULES:
Subchapter 5. License Types, Bond Requirements and Display of License Number and Firm Name
158:30-5-2. Insurance and bond requirements [AMENDED]
Subchapter 9. Examination Procedures, License and Registration Fees and Duration of Licenses
158:30-9-4. Continuing Education [AMENDED]
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[OAR Docket #08-543; filed 4-1-08]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 40. ELECTRICAL INDUSTRY REGULATIONS

[OAR Docket #08-544]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review of permanent rules
RULES:
Subchapter 1. General Provisions
158:40-1-3. License requirement [AMENDED]
158:40-1-4. Standard of installation [AMENDED]
Subchapter 5. Licensing Requirements, Display of License and Firm Name, and Bond Requirements
158:40-5-5. Bond and insurance requirements [AMENDED]
Subchapter 9. Examination Applications, Examinations and License and Registration Fees and Renewals
58:40-9-2. Examinations [AMENDED]
158:40-9-4. Continuing education [AMENDED]
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[OAR Docket #08-544; filed 4-1-08]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 50. MECHANICAL INDUSTRY REGULATIONS

[OAR Docket #08-545]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review of permanent rules
RULES:
Subchapter 5. License Types, Limitations of Licenses, Contractor Special Requirements and Display of License Number and Firm Name
158:50-5-3. Bond and insurance requirements [AMENDED]
Subchapter 9. Qualifications for Mechanical Licensure, License and Registration Fees, Duration of License, Mechanical License Application, and Apprentice Registration
158:50-9-7. Continuing Education [AMENDED]
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[OAR Docket #08-545; filed 4-1-08]

TITLE 165. CORPORATION COMMISSION
CHAPTER 5. RULES OF PRACTICE

[OAR Docket #08-557]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Fees
Part 1. General Provisions
165:5-3-1. Fees [AMENDED]
Subchapter 7. Commencement of Cause
Part 1. General
165:5-7-1. General application and notice requirements [AMENDED]
Part 3. Oil and Gas
165:5-7-14. Tax exemptions pursuant to OAC 165:10, Subchapter 21 [REVOKED]
165:5-7-22. Multiple zone completions [REVOKED]
165:5-7-23. Production through multiple choke assembly [REVOKED]
165:5-7-24. Commingling of well [REVOKED]
165:5-7-35. Operation of commercial pit and/or commercial soil farming site [AMENDED]
165:5-7-36. Road oiling [REVOKED]
Part 5. Public Utilities
165:5-7-57. Acquisition, control, or merger of domestic public utilities [AMENDED]
Subchapter 9. Subsequent Pleadings
165:5-9-3. Emergency applications [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #08-557; filed 4-2-08]

TITLE 208. EDGE FUND POLICY BOARD
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #08-542]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions [NEW]
208:1-1-1. Purpose [NEW]

208:1-1-2. Vision and Mission Statement [NEW]
208:1-1-3. Definitions [NEW]
208:1-1-4. Eligibility [NEW]
208:1-1-5. Programs and Projects Criteria [NEW]
Subchapter 3. Policy Board Operations [NEW]
208:1-3-1. Authority and Operation [NEW]
208:1-3-2. Procedures for Adoption, Amendment and Repeal of Rules [NEW]
208:1-3-3. Requests for Declaratory Rulings [NEW]
208:1-3-4. Appeals [NEW]
Subchapter 5. Fund Operations [NEW]
208:1-5-1. EDGE Fund Trust [NEW]
208:1-5-2. Technical Advisory Panel(s) [NEW]
208:1-5-3. Areas of Interest [NEW]
208:1-5-4. Funding Leverage [NEW]
208:1-5-5. Funding Limitations [NEW]
208:1-5-6. Notification Process [NEW]
208:1-5-7. Application Process [NEW]
208:1-5-8. Review Process [NEW]
208:1-5-9. Audit and Records Provisions [NEW]

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[OAR Docket #08-542; filed 3-31-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES

[OAR Docket #08-607]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
210:10-1-5. Audits [AMENDED]
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[OAR Docket #08-607; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 15. CURRICULUM AND INSTRUCTION

[OAR Docket #08-608A]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Priority Academic Student Skills
Part 26. Personal Financial Literacy [NEW]
210:15-3-198. Overview of Personal Financial Literacy for Grades 7-12 [NEW]
210:15-3-199. Personal Financial Literacy for Grades 7-12 [NEW]
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[OAR Docket #08-608A; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 15. CURRICULUM AND INSTRUCTION

[OAR Docket #08-608]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 30. Supplemental Educational Service Providers [NEW]
210:15-30-1. Purpose [NEW]
210:15-30-2. Local Educational Agency Role and Responsibilities [NEW]
210:15-30-3. SES Provider Responsibilities [NEW]
210:15-30-4. Removal of an SES provider [NEW]
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[OAR Docket #08-608; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 15. CURRICULUM AND INSTRUCTION

[OAR Docket #08-609]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 33. Celebrate Freedom Week [NEW]
210:15-33-1. Purpose [NEW]
210:15-33-2. Celebrate Freedom Week Requirements [NEW]
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[OAR Docket #08-609; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #08-610]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 9. Professional Standards: Teacher Education and Certification
Part 9. Teacher Certification
210:20-9.99. National Board certification [AMENDED]
210:20-9-99.1. National certification bonus for school psychologists, speech-language pathologists, and audiologists [AMENDED]
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[OAR Docket #08-610; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #08-611]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 9. Professional Standards: Teacher Education and Certification
Part 17. Full (Subject Matter) Competencies for Licensure and Certification
210:20-9-172. Full (subject matter) competencies for licensure and certification [AMENDED]
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[OAR Docket #08-611; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 25. FINANCE

[OAR Docket #08-606]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Funding Criteria
210:25-3-7. Financial information processing [AMENDED]
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TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS

[OAR Docket #08-612]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 7. Additional Standards for Middle Level Schools
Part 9. Standard V: The School Staff
210:35-7-44. Staff qualifications [AMENDED]
Subchapter 9. Additional Standards for Secondary Schools
Part 9. Standard V: The School Staff
210:35-9-44. Staff qualifications [AMENDED]
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[OAR Docket #08-612; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS

[OAR Docket #08-613]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 9. Additional Standards for Secondary Schools
Part 7. Standard IV: Curriculum, Instruction, Assessment and Climate
210:35-9-31. Program of studies and graduation requirements [AMENDED]
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[OAR Docket #08-613; filed 4-9-08]

TITLE 305. OFFICE OF DISABILITY CONCERNS
CHAPTER 1. ORGANIZATION, OPERATIONS, PROCEDURES AND POLICIES

[OAR Docket #08-560A]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
305:1-1-2 [AMENDED]
305:1-1-3 [AMENDED]
305:1-1-4 [AMENDED]
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[OAR Docket #08-560A; filed 4-3-08]

TITLE 305. OFFICE OF DISABILITY CONCERNS
CHAPTER 10. CLIENT ASSISTANCE PROGRAM

[OAR Docket #08-560]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
305:10-1-1 [AMENDED]
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TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 105. VITAL STATISTICS

[OAR Docket #08-487]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. Purpose, Forms and Fees
310:105-1-3 [AMENDED]

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[OAR Docket #08-487; filed 3-28-08]

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

[OAR Docket #08-500]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-10 [AMENDED]
Part 45. Optometrists
317:30-5-431 through 317:30-5-432 [AMENDED]
317:30-5-432.1 [NEW]
Part 47. Optical Companies
317:30-5-451 [AMENDED]
317:30-5-452 [REVOKED]
(Reference APA WF # 07-26)
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[OAR Docket #08-500; filed 3-31-08]

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

[OAR Docket #08-501]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-6 [AMENDED]
317:30-3-12 [AMENDED]
317:30-3-23 [AMENDED]
(Reference APA WF # 07-37)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-502]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 20. Lactation Consultants
317:30-5-230 through 317:30-5-235 [NEW]
(Reference APA WF # 07-42)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-503]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 85. ADvantage Program Waiver Services
317:30-5-760 through 30-5-764 [AMENDED]
(Reference APA WF # 07-49)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-505]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 21. Outpatient Behavioral Health Services
317:30-5-245 [AMENDED]
(Reference APA WF # 07-56)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-506]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 6. Inpatient Psychiatric Hospitals
317:30-5-96.8 [NEW]
(Reference APA WF # 07-59)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-507]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 39. Skilled ~~and Registered~~ Nursing Services
317:30-5-390 [AMENDED]
Part 51. Habilitation Services
317:30-5-480 [AMENDED]
317:30-5-482 [AMENDED]
Part 53. Specialized Foster Care
317:30-5-495 through 317:30-5-499 [AMENDED]
Part 59. Homemaker Services
317:30-5-535 through 317:30-5-538 [AMENDED]
(Reference APA WF # 07-60A)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-509]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-8 [AMENDED]
Part 4. Long Term Care Hospitals
317:30-5-65 [AMENDED]
Part 9. Long Term Care Facilities
317:30-5-133.2 [AMENDED]
(Reference APA WF # 07-61)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-510]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-14 through 317:30-5-15 [AMENDED]
(Reference APA WF # 07-62)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-511]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 32. SoonerRide Non-Emergency Transportation
317:30-5-327.5 [AMENDED]
(Reference APA WF # 07-63)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-512]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 110. Indian Health Services, Tribal Programs, and Urban Indian Clinics (I/T/Us)
317:30-5-1085 through 317:30-5-1088 [AMENDED]
317:30-5-1090 through 317:30-5-1091 [AMENDED]
317:30-5-1093 through 317:30-5-1096 [AMENDED]
317:30-5-1098 through 317:30-5-1099 [AMENDED]
317:30-5-1100 [NEW]
(Reference APA WF # 07-64)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-514]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 9. Long Term Care Facilities
317:30-5-126 [AMENDED]
317:30-5-131.2 [AMENDED]
317:30-5-132 [AMENDED]
317:30-5-134 [AMENDED]
(Reference APA WF # 07-67)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-515]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review

RULES:
Subchapter 5. Individual Providers and Specialties
Part 3. Hospitals
317:30-5-42.14 [AMENDED]
Part 63 Ambulatory Surgical Centers
317:30-5-566 [AMENDED]
(Reference APA WF # 07-68)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-516]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 21. Outpatient Behavioral Health Services
317:30-5-241 [AMENDED]
(Reference APA WF # 07-71)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-517]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 83. Residential Behavior Management Services in Foster Care Settings
317:30-5-740 [AMENDED]
(Reference APA WF # 07-74)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-518]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-11 [AMENDED]
(Reference APA WF # 07-75)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #08-519]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 5. ~~Pharmacists~~ Pharmacies
317:30-5-70 through 317:30-5-70.1 [AMENDED]
317:30-5-70.3 [AMENDED]
317:30-5-72 [AMENDED]
317:30-5-77 through 317:30-5-77.3 [AMENDED]
317:30-5-78 through 317:30-5-78.2 [AMENDED]
317:30-5-86 [AMENDED]
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[OAR Docket #08-519; filed 3-31-08]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

[OAR Docket #08-504]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Eligibility and Countable Income
Part 5. Countable Income and Resources
317:35-5-42 [AMENDED]
(Reference APA WF # 07-55)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

[OAR Docket #08-513]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 17. ADvantage Waiver Services
317:35-17-11 [AMENDED]
317:35-17-12 [AMENDED]
317:35-17-15 [AMENDED]
317:35-17-16 [AMENDED]
(Reference APA WF # 07-66)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 40. DEVELOPMENTAL DISABILITIES SERVICES

[OAR Docket #08-508]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. ~~Client~~ Member Services
Part 3. Guidelines to Staff
317:40-5-40 [AMENDED]
Part 9. Service Provisions
317:40-5-101 [AMENDED]
317:40-5-112 [AMENDED]
Part 11. Other Community Residential Supports
317:40-5-152 [AMENDED]
Subchapter 7. ~~Waiver – Vocational~~ Employment Services Through Home and Community-Based Services Waivers
317:40-7-7 [AMENDED]
317:40-7-15 [AMENDED]
317:40-7-21 [AMENDED]
(Reference APA WF # 07-60B)
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TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 20. RACING OFFICIALS AND RACING PERSONNEL

[OAR Docket #08-546]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULE:
325:20-1-3 [AMENDED]
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[OAR Docket #08-546; filed 4-1-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 25. CHILD SUPPORT ENFORCEMENT DIVISION

[OAR Docket #08-537]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Scope And Applicability
340:25-1-1.1 through 340:25-1-2.1 [AMENDED]
Subchapter 5. Operational Policies
Part 11. CSED System Security
340:25-5-75 [AMENDED]
Part 15. Case Initiation, Case Management, and Case Closure
340:25-5-110.1 [AMENDED]
340:25-5-114 [AMENDED]
340:25-5-117 [AMENDED]
340:25-5-123 through 340:25-5-124 [AMENDED]
340:25-5-124.2 through 340:25-5-124.3 [AMENDED]
Part 17. Past Support
340:25-5-140 [AMENDED]
Part 20. Medical Support
340:25-5-168 [AMENDED]
340:25-5-171 [AMENDED]
Part 21. Establishment
340:25-5-176 [AMENDED]
340:25-5-178 [AMENDED]
340:24-5-179.1 [AMENDED]
Part 22. Review and Modification
340:25-5-198.2 [AMENDED]
Part 23. Enforcement
340:25-5-200 [AMENDED]
340:25-5-212 [AMENDED]
Part 25. Federal Offset Programs
340:25-5-215 [AMENDED]
Part 27. State Tax Refund Offset Program
340:25-5-235 [AMENDED]
340:25-5-244 [AMENDED]
Part 33. Interstate and International Cases
340:25-5-270 [AMENDED]
Part 39. Accounting and Distribution
340:25-5-350.3 through 340:25-5-351 [AMENDED]
(Reference APA WF 07-15 and 07-35)
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[OAR Docket #08-537; filed 3-31-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE

[OAR Docket #08-539]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions of Child Welfare Services
Part 1. Scope and Applicability
340:75-1-86 [AMENDED]
Subchapter 3. Child Protective Services
340:75-3-5 [AMENDED]
340:75-3-6.1 [AMENDED]
340:75-3-7.1 [AMENDED]
340:75-3-7.3 [AMENDED]
340:75-3-8 [AMENDED]
340:75-3-8.2 [AMENDED]
340:75-3-8.6 [AMENDED]
340:75-3-9.1 [AMENDED]
340:75-3-12 [AMENDED]
340:75-3-13 [AMENDED]
Subchapter 7. Foster Home Care
Part 1. General Provisions
340:75-7-2 [AMENDED]
Part 2. Development of Resources
340:75-7-12 [AMENDED]
340:75-7-15 [AMENDED]
340:75-7-18 [AMENDED]
340:75-7-24 [AMENDED]
Part 4. Roles and Responsibilities
340:75-7-37 through 340:75-7-38 [AMENDED]
Part 5. Eligibility and Payments
340:75-7-51 through 340:75-7-53 [AMENDED]
Part 6. Foster Home Care Support Services
340:75-7-65 [AMENDED]
Part 8. Continuous Quality Assessment of a Resource Home
340:75-7-94 [AMENDED]
Part 25. Emergency Foster Care Program
340:75-7-262 [AMENDED]
Subchapter 10. Emergency Shelter Care
340:75-10-9 [AMENDED]
Subchapter 13. Other Child Welfare Services and Medical Services for Children in Out-of-home Care
Part 7. Medical Services
340:75-13-79 [AMENDED]
Subchapter 15. Adoptions
Part 10. Adoptive Family Assessment and Preparation Process
340:75-15-88 [AMENDED]
(Reference APA WF 07-12, 07-22, 07-24, and 07-37)
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TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE

[OAR Docket #08-540]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 6. Permanency Planning
Part 1. General Provisions
340:75-6-4 [AMENDED]
Part 5. Permanency Planning Services
340:75-6-31 [AMENDED]
340:75-6-31.5 [AMENDED]
Subchapter 8. Therapeutic Foster Care and Developmental Disabilities Services
Part 1. Therapeutic Foster Care
340:75-8-8 [AMENDED]
Subchapter 15. Adoptions
Part 2. Legal Base and Scope of the Adoption Program
340:75-15-5 [AMENDED]
340:75-15-7 [AMENDED]
Part 10. Adoptive Family Assessment and Preparation Process
340:75-15-93 [AMENDED]
(Reference APA WF 08-04)
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[OAR Docket #08-540; filed 3-31-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 110. LICENSING SERVICES

[OAR Docket #08-536]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
Part 1. Licensing Services - Child Care
340:110-1-4 through 340:110-1-6 [AMENDED]
340:110-1-8 through 340:110-1-8.1 [AMENDED]
340:110-1-8.3 [AMENDED]
340:110-1-9 through 340:110-1-11 [AMENDED]
340:110-1-14 [AMENDED]
340:110-1-17 [AMENDED]
340:110-1-20 through 340:110-1-21 [AMENDED]
Part 3. Licensing Services - Residential Care and Agencies
340:110-1-40 [AMENDED]
340:110-1-42 through 340:110-1-43.1 [AMENDED]
340:110-1-45 through 340:110-1-47.2 [AMENDED]
340:110-1-51 through 340:110-1-53 [AMENDED]
340:110-1-55 [AMENDED]
Subchapter 3. Licensing Standards for Child Care Facilities
Part 1. Requirements for Child Care Centers
340:110-3-5 through 340:110-3-5.1 [AMENDED]
340:110-3-27 [AMENDED]
Part 2. Requirements for Part-Day Children's Programs
340:110-3-39 through 340:110-3-40 [AMENDED]
340:110-3-49.3 [AMENDED]
Part 5. Requirements for Family Child Care Homes and Large Family Child Care Homes
340:110-3-81 through 340:110-3-82 [AMENDED]
340:110-3-84 through 340:110-3-88 [AMENDED]
340:110-3-89.1 through 340:110-3-91 [AMENDED]
340:110-3-91.1 [NEW]
340:110-3-92 through 340:110-3-94 [AMENDED]
340:110-3-97 through 340:110-3-97.1 [AMENDED]
Part 14. Requirements for School-Age Programs
340:110-3-223 through 340:110-3-224 [AMENDED]
340:110-3-237 [AMENDED]
(Reference APA WF 07-16 and 08-05)
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[OAR Docket #08-536; filed 3-31-08]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 1. AGENCY AUTHORITY AND OBJECTIVES

[OAR Docket #08-492]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
390:1-1-4 [AMENDED]
390:1-1-8 [AMENDED]
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[OAR Docket #08-492; filed 3-31-08]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 2. ADMINISTRATIVE PROCEDURES

[OAR Docket #08-493]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
390:2-1-2 [AMENDED]
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[OAR Docket #08-493; filed 3-31-08]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 10. PEACE OFFICER CERTIFICATION

[OAR Docket #08-494]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
390:10-1-2 [AMENDED]
390:10-1-4 [AMENDED]
390:10-1-5 [AMENDED]
390:10-1-6 [AMENDED]
390:10-1-7 [AMENDED]
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[OAR Docket #08-494; filed 3-31-08]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 15. BASIC PEACE OFFICER CERTIFICATION TRAINING

[OAR Docket #08-495]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. Basic Academy Programs
390:15-1-1 [AMENDED]
390:15-1-2 [AMENDED]
390:15-1-3 [AMENDED]
390:15-1-11 [AMENDED]
390:15-1-13 [AMENDED]
390:15-1-18 [AMENDED]
390:15-1-19 [AMENDED]
Subchapter 3. Collegiate Officer Program
390:15-3-1 [AMENDED]
390:15-3-6 [AMENDED]
390:15-3-7 [AMENDED]
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[OAR Docket #08-495; filed 3-31-08]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 20. RESERVE PEACE OFFICER CERTIFICATION AND TRAINING

[OAR Docket #08-496]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
390:20-1-2 [AMENDED]
390:20-1-3 [AMENDED]
390:20-1-7 [AMENDED]
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[OAR Docket #08-496; filed 3-31-08]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 25. CONTINUING LAW ENFORCEMENT EDUCATION

[OAR Docket #08-497]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
390:25-1-6 [AMENDED]
390:25-1-7 [AMENDED]
390:25-1-8 [AMENDED]
390:25-1-14 [AMENDED]
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TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 35. REGULATION OF PRIVATE SECURITY INDUSTRY

[OAR Docket #08-498]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 5. License Requirements
390:35-5-4 [AMENDED]
390:35-5-5 [AMENDED]
390:35-5-12 [AMENDED]
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[OAR Docket #08-498; filed 3-31-08]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 55. FACILITIES MANAGEMENT

[OAR Docket #08-499]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
390:55-1-10 [AMENDED]
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[OAR Docket #08-499; filed 3-31-08]

TITLE 422. OKLAHOMA LIQUEFIED PETROLEUM GAS RESEARCH, MARKETING AND SAFETY COMMISSION
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #08-489]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
422:1-1-2. Definitions [AMENDED]
422:1-1-4. Funding [AMENDED]
422:1-1-6. Location, office hours [AMENDED]
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[OAR Docket #08-489; filed 3-28-08]

TITLE 422. OKLAHOMA LIQUEFIED PETROLEUM GAS RESEARCH, MARKETING AND SAFETY COMMISSION
CHAPTER 10. MARKETING AND SAFETY PROGRAMS

[OAR Docket #08-490]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Water Heater Rebate Program

422:10-1-2. Definitions [AMENDED]
422:10-1-5. Eligibility [AMENDED]
422:10-1-6. Applications [AMENDED]
422:10-1-9. Rebate amount; minimum efficiency factor [AMENDED]
Subchapter 5. Regulator Rebate Program
422:10-5-2. Definitions [AMENDED]
422:10-5-5. Eligibility [AMENDED]
422:10-5-6. Applications [AMENDED]
422:10-5-9. Rebate amount~~; minimum efficiency factor~~ [AMENDED]
Subchapter 15. Manufactured Housing Incentive Program [REVOKED]
422:10-15-1. Definitions [REVOKED]
422:10-15-2. Establishment; duration [REVOKED]
422:10-15-3 Incentive amount; limitation [REVOKED]
422:10-15-4. Eligibility [REVOKED]
422:10-15-5. Application procedure [REVOKED]
422:10-15-6. Payment of rebate [REVOKED]
422:10-15-7. Conditions of receipt of rebate [REVOKED]
422:10-15-8. Assignment of incentive [REVOKED]
422:10-15-9. Compliance [REVOKED]
422:10-15-10. Complaints [REVOKED]
422:10-15-11. Penalties [REVOKED]
Subchapter 20. Central Furnace Rebate Program
422:10-20-2. Definitions [AMENDED]
422;10-20-5. Eligibility [AMENDED]
422:10-20-6. Applications [AMENDED]
422:10-20-9. Rebate amount; minimum efficiency factor [AMENDED]
Subchapter 22. Media Rebate Program
422:10-22-5. Application [AMENDED]

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TITLE 422. OKLAHOMA LIQUEFIED PETROLEUM GAS RESEARCH, MARKETING AND SAFETY COMMISSION CHAPTER 15. ASSESSMENT ENFORCEMENT AND COLLECTION

[OAR Docket #08-491]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Audits and Investigations
422:15-3-1. Inspection of Records [AMENDED]
Subchapter 5. Assessment Hearings
422:15-5-1. Petition and notice [AMENDED]
422:15-5-3. Subpoenas [AMENDED]

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TITLE 490. OKLAHOMA STATE BOARD OF EXAMINERS FOR LONG TERM CARE ADMINISTRATORS CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #08-469]

RULEMAKING ACTION:
Submission for Gubernatorial and Legislative Review
PROPOSED RULES:
Subchapter 1. General Provisions
490:1-1-2. Definitions [AMENDED]
Subchapter 3. Oklahoma State Board of Examiners for Long Term Care Administrators
490:1-3-9. Waiver of one administrator per facility rule [REVOKED]
Subchapter 5. Investigative Procedures
490:1-5-7. Hearing [AMENDED]
Subchapter 6. Administrator Registry
490:1-6-1. General provisions [AMENDED]
Subchapter 7. Fees And Deposits
490:1-7-2. Schedule of fees [AMENDED]
Subchapter 9. Continuing Education
490:1-9-4. Continuing education requirements [AMENDED]

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TITLE 490. OKLAHOMA STATE BOARD OF EXAMINERS FOR LONG TERM CARE ADMINISTRATORS CHAPTER 10. LONG TERM CARE ADMINISTRATORS

[OAR Docket #08-470]

RULEMAKING ACTION:
Submission for Gubernatorial and Legislative Review

PROPOSED RULES:
Subchapter 1. Licensing of Long Term Care Administrators
490:10-1-2.1. General requirements that must be met by each applicant [NEW]
490:10-1-3. ~~Qualifications~~Requirements for initial licensure [AMENDED]
490:10-1-4. ~~Qualifications~~Requirements for licensure by reciprocity [AMENDED]
490:10-1-5. ~~Qualifications~~Requirements for a provisional license [AMENDED]
490:10-1-9. Inactive license [AMENDED]
490:10-1-10. Requirements for reinstatement from inactive status [AMENDED]
490:10-1-11. Requirements for restoration from suspended status [AMENDED]
Subchapter 3. Application for Licensure
490:10-3-1. Application for initial licensure, reciprocity, or provisional license [AMENDED]
490:10-3-1.1. Evidence requirements [NEW]
490:10-3-3. State standards examination [AMENDED]
490:10-3-5. Application for licensure renewal [AMENDED]
Subchapter 5. Discipline
490:10-5-3. Disciplinary action [AMENDED]
Subchapter 8. Administrator-In-Training (AIT)
490:10-8-17. Supervision of ~~more than one (1)AIT~~ AITs ~~restricted~~ [AMENDED]
Subchapter 13. Standards for Administrators
490:10-13-2. Administrator Responsibilities [AMENDED]
490:10-13-3. Requirements for administrators who serve as the Administrator-of-Record of two-or-more licensed long term care facilities located within a fifty (50) mile radius of each other, wherein the total number of occupied beds does not exceed one-hundred-twenty (120) beds and wherein one-or-more individuals are employed in Assistant Administrator, Unlicensed, capacities [NEW]
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[OAR Docket #08-470; filed 3-28-08]

TITLE 490. OKLAHOMA STATE BOARD OF EXAMINERS FOR LONG TERM CARE ADMINISTRATORS
CHAPTER 15. LONG TERM CARE CERTIFIED ASSISTANT ADMINISTRATORS

[OAR Docket #08-471]

RULEMAKING ACTION:
Submission for Gubernatorial and Legislative Review
PROPOSED RULES:
Subchapter 1. Certification of Long Term Care "Assistant Administrators, Unlicensed" [NEW]
490:15-1-1. Purpose [NEW]
490:15-1-2. Definitions [NEW]
490:15-1-3. Minimum qualifications for certified assistant administrators [NEW]
490:15-1-4. Conditions for employment for certified assistant administrators [NEW]
Subchapter 3. Application For Certification [NEW]
490:15-3-1. Application process [NEW]
490:15-3-2. Approval process [NEW]
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[OAR Docket #08-471; filed 3-28-08]

TITLE 530. OFFICE OF PERSONNEL MANAGEMENT
CHAPTER 10. MERIT SYSTEM OF PERSONNEL ADMINISTRATION RULES

[OAR Docket #08-554]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. Affirmative Action and Equal Employment Opportunity
Part 2. Discrimination Complaints Investigations
530:10-3-22 [AMENDED]
Subchapter 7. Salary and Payroll
Part 1. Salary and Rates of Pay
530:10-7-1.2 [AMENDED]
Subchapter 15. Time and Leave
Part 5. Miscellaneous Types of Leave
530:10-15-45 [AMENDED]
Subchapter 17. Performance Evaluation and Career Enhancement Programs
Part 17. State Work Incentive Program
530:10-17-177 [AMENDED]
Subchapter 21. Employee Assistance Program
Part 1. General Provisions
530:10-21-5 [AMENDED]
Subchapter 23. Employee Recognition
Part 1. General Provisions
530:10-23-3 [AMENDED]
Appendix A. Pay Band Schedule [REVOKED]
Appendix A. Pay Band Schedule [NEW]
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TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #08-483]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 5. General Course in Method of Operations
535:1-5-5.1. Complaint confidentiality [AMENDED]
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[OAR Docket #08-483; filed 3-28-08]

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 10. PHARMACISTS; INTERNS, PRECEPTORS AND TRAINING AREAS

[OAR Docket #08-484]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. Pharmacies
535:10-3-1.2. Violations of professional conduct [AMENDED]
Subchapter 7. Pharmacist Licensure
535:10-7-8. Foreign pharmacy graduates licensure applicants [AMENDED]
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TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 20. MANUFACTURERS, PACKAGERS AND WHOLESALERS

[OAR Docket #08-485]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 7. Wholesalers and Pedigree Rules
535:20-7-1. Purpose [AMENDED]
535:20-7-2. Definitions [AMENDED]
535:20-7-3. Wholesale drug distributor licensing requirement [AMENDED]
535:20-7-4. Minimum required information for licensure [AMENDED]
535:20-7-5. Minimum qualifications [AMENDED]
535:20-7-6. Personnel [AMENDED]
535:20-7-7. Minimum requirements for the storage, ~~and~~ handling, transport, and shipment of ~~prescription~~ drugs and/or devices and ~~for the~~ establishment and maintenance of ~~prescription~~ drug ~~distribution~~ records [AMENDED]
535:20-7-7.1. Facility requirements [AMENDED]
535:20-7-7.2. Multiple Licensing [AMENDED]
535:20-7-7.3. Security and anti-counterfeiting [AMENDED]
535:20-7-7.4. Storage [AMENDED]
535:20-7-7.5. Examination of materials [AMENDED]
535:20-7-7.6. Drug returns, and returned, ~~Returned,~~ damaged, and outdated ~~prescription~~ drugs [AMENDED]
535:20-7-7.7. Recordkeeping [AMENDED]
535:20-7-7.8. Written policies and procedures [AMENDED]
535:20-7-7.9. Responsible persons [REVOKED]
535:20-7-7.10. Compliance with federal, state and local laws [AMENDED]
535:20-7-7.11. Salvaging and reprocessing [REVOKED]
535:20-7-9.1. Prohibited Conduct [NEW]
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[OAR Docket #08-485; filed 3-28-08]

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 25. RULES AFFECTING VARIOUS REGISTRANTS

[OAR Docket #08-486]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 9. Violations of the Rules of Registrant Conduct
535:25-9-7. Theft [AMENDED]
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TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 15. CENTRAL PURCHASING

[OAR Docket #08-564]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 4. Supplier Provisions
580:15-4-6. [AMENDED]
Subchapter 6. State Agency Provisions
580:15-6-6. [AMENDED]
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[OAR Docket #08-564; filed 4-3-08]

TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 35. FLEET MANAGEMENT DIVISION

[OAR Docket #08-565]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
580:35-1-10 [AMENDED]
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TITLE 630. SCENIC RIVERS COMMISSION
CHAPTER 1. ~~RULES~~OSRC OPERATIONS

[OAR Docket #08-474]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 1 . ~~Rules~~OSRC Operations [AMENDED]
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[OAR Docket #08-474; filed 3-28-08]

TITLE 630. SCENIC RIVERS COMMISSION
CHAPTER 2. OKLAHOMA SCENIC RIVERS COMMISSION [REVOKED]

[OAR Docket #08-475]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 2. Oklahoma Scenic Rivers Commission [REVOKED]
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[OAR Docket #08-475; filed 3-28-08]

TITLE 630. SCENIC RIVERS COMMISSION
CHAPTER 4. HEARING PROCEDURES, PRACTICES, AND APPEALS

[OAR Docket #08-476]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review

RULES:
Chapter 4. Hearing Procedures, Practices, and Appeals [AMENDED]
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[OAR Docket #08-476; filed 3-28-08]

TITLE 630. SCENIC RIVERS COMMISSION CHAPTER 10. LICENSING AND USE PERMITS

[OAR Docket #08-477]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 10. Licensing and Use Permits [AMENDED]
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[OAR Docket #08-477; filed 3-28-08]

TITLE 630. SCENIC RIVERS COMMISSION CHAPTER 15. PROTECTION OF NATURAL RESOURCES

[OAR Docket #08-478]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 15. Protection of Natural Resources [AMENDED]
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TITLE 630. SCENIC RIVERS COMMISSION CHAPTER 20. VIOLATIONS [REVOKED]

[OAR Docket #08-479]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 20. Violations [REVOKED]
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[OAR Docket #08-479; filed 3-28-08]

TITLE 695. OVERSIGHT COMMITTEE FOR STATE EMPLOYEE CHARITABLE CONTRIBUTIONS CHAPTER 10. OKLAHOMA STATE CHARITABLE CAMPAIGN RULES

[OAR Docket #08-555]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
695:10-1-1 [AMENDED]
695:10-1-2 [AMENDED]
695:10-1-5 [AMENDED]
695:10-1-6 [AMENDED]
695:10-1-7 [AMENDED]
695:10-1-8 [AMENDED]
695:10-1-9 [AMENDED]
695:10-1-10 [AMENDED]
695:10-1-11 [AMENDED]
695:10-1-13 [AMENDED]
Subchapter 3. Principal Combined Fund Raising Organizations
Part 1. State Principal Combined Fund Raising Organization (State PCFRO)
695:10-3-2 [AMENDED]
695:10-3-3 [AMENDED]
695:10-3-4 [AMENDED]
Subchapter 5. Conduct of the Charitable Campaign
695:10-5-2 [AMENDED]
695:10-5-3 [AMENDED]
695:10-5-4 [AMENDED]
Subchapter 7. Pledge Cards, Payroll Authorizations and Mailing Lists
695:10-7-2 [AMENDED]
Subchapter 11. State and Local PCFRO Proceeds and Costs
695:10-11-2 [AMENDED]

Subchapter 13. Notices, Complaints, Appeals and Hearings
695:10-13-2 [AMENDED]
695:10-13-3 [AMENDED]
695:10-13-4 [AMENDED]
695:10-13-5 [AMENDED]
695:10-13-6 [AMENDED]
695:10-13-7 [AMENDED]
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TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #08-520]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. Public Policy
Part 11. Public Records
710:1-3-70 [AMENDED]
Subchapter 5. Practice and Procedure
Part 5. Administrative Proceedings Related to Tax Protests
710:1-5-27 [AMENDED]
710:1-5-40 [AMENDED]
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[OAR Docket #08-520; filed 3-31-08]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 10. AD VALOREM ~~TAX~~

[OAR Docket #08-521]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 2. Business Personal Property Valuation Schedules
710:10-2-5 [AMENDED]
Subchapter 7. Manufacturing Facilities
710:10-7-2.2 [AMENDED]
710:10-7-5 [AMENDED]
Subchapter 14. Full Fair Cash Value Exemption for Disabled Veterans in Receipt of Compensation at the One Hundred Percent Rate
710:10-14-5 [AMENDED]
Subchapter 15. Freeport Exemption [NEW]
710:10-15-1 [NEW]
710:10-15-2 [NEW]
710:10-15-3 [NEW]
710:10-15-4 [NEW]
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[OAR Docket #08-521; filed 3-31-08]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 20. ALCOHOL, MIXED BEVERAGES AND LOW-POINT BEER

[OAR Docket #08-522]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
710:20-1-3 [AMENDED]
Subchapter 2. Low-Point Beer
Part 1. General Provisions
710:20-2-20 [AMENDED]
Part 3. Low-Point Beer Distribution
710:20-2-52 [AMENDED]
710:20-2-53 [AMENDED]
710:20-2-55 [AMENDED]
710:20-2-56 [AMENDED]
Subchapter 5. Mixed Beverages
710:20-5-4 [AMENDED]
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[OAR Docket #08-522; filed 3-31-08]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 22. BOATS AND MOTORS

[OAR Docket #08-523]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 7. Titles
710:22-7-5 [AMENDED]
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[OAR Docket #08-523; filed 3-31-08]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 23. CHARITY GAMES TAX

[OAR Docket #08-524]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
710:23-1-4 [AMENDED]
710:23-1-8 [AMENDED]
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[OAR Docket #08-524; filed 3-31-08]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 35. ESTATES

[OAR Docket #08-525]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. Returns; Remittance; Releases
Part 1. Filing and Payment
710:35-3-9 [NEW]
Part 3. Releases
710:35-3-20 [AMENDED]
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[OAR Docket #08-525; filed 3-31-08]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 40. FRANCHISE TAX

[OAR Docket #08-526]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
710:40-1-17 [AMENDED]
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[OAR Docket #08-526; filed 3-31-08]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 45. GROSS PRODUCTION

[OAR Docket #08-527]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. Payment; Remittance; Refunds
710:45-3-5 [AMENDED]
Subchapter 5. Required Returns and Reports
710:45-5-2 [AMENDED]
Subchapter 9. Exemptions and Exclusions
Part 5. Horizontally Drilled Production Wells
710:45-9-28 [AMENDED]
Part 7. Incremental Production from Enhanced Recovery Projects or Properties
710:45-9-32 [AMENDED]
Part 9. Production Enhancement Projects
710:45-9-43 [AMENDED]
Part 11. Reestablishment Of Production From an Inactive Well
710:45-9-53 [AMENDED]
Part 13. Deep Wells
710:45-9-62.1 [AMENDED]
Part 15. New Discovery Wells

710:45-9-73 [AMENDED]
Part 17. Economically At-Risk Leases
710:45-9-81 [AMENDED]
710:45-9-82 [AMENDED]
Part 19. Production Using Three Dimensional Seismic Shoots
710:45-9-93 [AMENDED]
Part 21. Marketing Costs Deduction [NEW]
710:45-9-100 [NEW]
710:45-9-101 [NEW]
710:45-9-102 [NEW]
710:45-9-103 [NEW]
710:45-9-104 [NEW]
710:45-9-105 [NEW]
Appendix A. Marketing Costs [NEW]

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TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 50. INCOME

[OAR Docket #08-528]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review

PROPOSED RULES:
Subchapter 3. Returns and Reports
Part 1. General Information
710:50-3-3 [AMENDED]
Subchapter 7. Remittances
710:50-7-2 [AMENDED]
Subchapter 15. Oklahoma Taxable Income
Part 5. Other Adjustments to Income
710:50-15-66 [AMENDED]
710:50-15-67 [NEW]
Part 7. Credits against Tax
710:50-15-71 [AMENDED]
710:50-15-86.1 [AMENDED]
710:50-15-87.1 [AMENDED]
710:50-15-96 [AMENDED]
710:50-15-98 [AMENDED]
710:50-15-106 [AMENDED]
710:50-15-107 [AMENDED]

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TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 60. MOTOR VEHICLES

[OAR Docket #08-529]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review

PROPOSED RULES:
Subchapter 3. Registration and Licensing
Part 1. General Provisions
710:60-3-10 [AMENDED]
710:60-3-24 [NEW]
Part 5. Dealers
710:60-3-55 [AMENDED]
710:60-3-56 [AMENDED]
Part 11. Other Vehicles
710:60-3-111 [AMENDED]
Part 13. Manufactured Homes
710:60-3-134 [NEW]
Part 14. All-Terrain Vehicles and Off-Road Motorcycles
710:60-3-140 [AMENDED]
710:60-3-141 [AMENDED]
710:60-3-142 [AMENDED]
Part 15. Special License Plates
710:60-3-150 [AMENDED]
710:60-3-160 [AMENDED]
710:60-3-168 [AMENDED]
710:60-3-171 [AMENDED]
Subchapter 5. Motor Vehicle Titles
Part 13. Foreign Vehicles
710:60-5-130 [AMENDED]
Subchapter 7. Motor Vehicle Excise Tax
710:60-7-1 [AMENDED]
Subchapter 9. Motor Vehicle License Agents/Agencies
Part 1. General Requirements, Duties and Responsibilities of Motor License Agents
710:60-9-11 [AMENDED]
Part 9. Specific Fiscal Duties
710:60-9-90 [AMENDED]
710:60-9-92 [AMENDED]
710:60-9-95 [AMENDED]
710:60-9-97 [AMENDED]

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TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 65. SALES AND USE TAX

[OAR Docket #08-530]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
710:65-1-2 [AMENDED]
710:65-1-5 [AMENDED]
710:65-1-7 [AMENDED]
710:65-1-9 [AMENDED]
Subchapter 3. Reports and Returns; Payments and Penalties; Records
Part 3. Records and Recordkeeping
710:65-3-30 [AMENDED]
Subchapter 7. Duties and Liabilities
710:65-7-6 [AMENDED]
710:65-7-8.1 [NEW]
710:65-7-9 [AMENDED]
710:65-7-11 [AMENDED]
710:65-7-13 [AMENDED]
710:65-7-15 [AMENDED]
710:65-7-17 [AMENDED]
710:65-7-19 [NEW]
Subchapter 9. Permits
710:65-9-1 [AMENDED]
710:65-9-6 [AMENDED]
710:65-9-8 [AMENDED]
710:65-9-10 [AMENDED]
Subchapter 13. Sales and Use Tax Exemptions
Part 1. Advertising in Media
710:65-13-1 [AMENDED]
Part 3. Agricultural Transactions
710:65-13-17 [AMENDED]
Part 5. Items Subject to Other Taxes
710:65-13-30 [AMENDED]
710:65-13-31 [REVOKED]
Part 7. Churches
710:65-13-33 [AMENDED]
Part 9. Computers; Data Processing; Telecommunications
710:65-13-51 [AMENDED]
710:65-13-52 [AMENDED]
710:65-13-54 [AMENDED]
Part 10. Coal
710:65-13-55 [AMENDED]
Part 11. Containers
710:65-13-60 [AMENDED]
Part 12. Aircraft
710:65-13-63 [AMENDED]
Part 16. Electronic Goods - Refitting, Refurbishing or Repairing [NEW]
710:65-13-85 [NEW]
Part 17. Export
710:65-13-90 [AMENDED]
Part 19. County, District and State Fairs
710:65-13-100 [AMENDED]
Part 21. Food Stamps
710:65-13-110 [AMENDED]
Part 23. Gas and Electricity
710:65-13-123 [AMENDED]
Part 25. Governmental Entities
710:65-13-132 [AMENDED]
Part 29. Manufacturing
710:65-13-150.1 [AMENDED]
710:65-13-153 [AMENDED]
710:65-13-155 [AMENDED]
710:65-13-156 [AMENDED]
Part 31. Medicine, Medical Appliances, and Health Care Entities and Activities
710:65-13-169 [AMENDED]
710:65-13-170 [AMENDED]
710:65-13-171 [AMENDED]
710:65-13-172 [AMENDED]
710:65-13-173 [AMENDED]
710:65-13-175 [AMENDED]
Part 33. Motor Fuels
710:65-13-180 [AMENDED]
Part 35. Newspapers; Periodicals; Programs; Media
710:65-13-192 [AMENDED]
710:65-13-194 [AMENDED]
Part 39. Schools and Higher Education
710:65-13-210 [AMENDED]
710:65-13-211 [RESERVED]
710:65-13-212 [RESERVED]
710:65-13-213 [RESERVED]
710:65-13-214 [RESERVED]
710:65-13-215 [RESERVED]
710:65-13-216 [RESERVED]
710:65-13-217 [RESERVED]
710:65-13-218 [RESERVED]
710:65-13-219 [RESERVED]
710:65-13-220 [NEW]
Part 43. Social, Charitable, and Civic Organizations and Activities
710:65-13-330 [AMENDED]
710:65-13-331 [AMENDED]
710:65-13-332 [AMENDED]
710:65-13-333 [AMENDED]
710:65-13-335 [AMENDED]
710:65-13-337 [AMENDED]
710:65-13-338 [AMENDED]
710:65-13-339 [AMENDED]
710:65-13-340 [AMENDED]

710:65-13-354 [NEW]
710:65-13-355 [NEW]
710:65-13-356 [NEW]
Part 51. Sales Tax Holiday [NEW]
710:65-13-510 [RESERVED]
710:65-13-511 [NEW]
710:65-13-512 [NEW]
Subchapter 18. Sourcing Pursuant to the Streamlined Sales and Use Tax Administration Act
710:65-18-3 [AMENDED]
710:65-18-5 [AMENDED]
Subchapter 19. Specific ~~Application~~ Applications and Examples
PART 1. "A"
710:65-19-6 [AMENDED]
PART 5. "C"
710:65-19-45 [AMENDED]
710:65-19-51 [AMENDED]
710:65-19-55 [AMENDED]
710:65-19-56 [AMENDED]
PART 9. "E"
710:65-19-89 [AMENDED]
PART 31. "P"
710:65-19-260 [AMENDED]
710:65-19-268 [AMENDED]
PART 39. "T"
710:65-19-330 [AMENDED]
PART 41. "U"
710:65-19-341 [AMENDED]

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TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 90. WITHHOLDING

[OAR Docket #08-531]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. Returns and Payments
710:90-3-11 [AMENDED]
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TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY AND ADMINISTRATIVE AUTHORITY

[OAR Docket #08-532]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 5. Waste Tire Recycling
710:95-5-3 [AMENDED]
710:95-5-11 [AMENDED]
710:95-5-13 [REVOKED]
710:95-5-14 [REVOKED]
710:95-5-15 [REVOKED]
710:95-5-16 [REVOKED]
710:95-5-17 [REVOKED]
710:95-5-18 [REVOKED]
710:95-5-19 [NEW]
710:95-5-20 [REVOKED]
710:95-5-21 [REVOKED]
710:95-5-22 [REVOKED]
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TITLE 715. TEACHERS' RETIREMENT SYSTEM
CHAPTER 10. GENERAL OPERATIONS

[OAR Docket #08-563]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Membership Provisions
715:10-1-6. Date of Membership [AMENDED]
Subchapter 5. Establishing Other Service Credits
715:10-5-4. Cost to purchase Oklahoma service [AMENDED]
Subchapter 13. Contributions For Membership Service
715:10-13-3.1. Employer contribution rates [REVOKED]
Subchapter 15. Service Retirement

715:10-15-6. Verification of date of birth [AMENDED]
715:10-15-11. Designation of beneficiaries for retirement options [AMENDED]
Subchapter 19. Tax-Sheltered Annuity Program
715:10-19-7. Methods of computing maximum TSA contribution [AMENDED]
715:10-19-8. Distributions [AMENDED]
Subchapter 21. Investment Policy
715:10-21-2. Statement of investment policy [AMENDED]
715:10-21-3. Investment guidelines [REVOKED]
715:10-21-4. Portfolio assets allocation [REVOKED]
715:10-21-5. Cash equivalents guidelines [REVOKED]
Subchapter 23. State And Education Employees Group Health And Dental Insurance Program
715:10-23-1. State and Education Employees Group Health and Dental Insurance Program [AMENDED]
715:10-23-2. Monthly health insurance premium supplement paid by the Teachers' Retirement System [AMENDED]
715:10-23-3. Participating education employers not enrolled in the State and Education Employees Group Insurance Plan [AMENDED]
715:10-23-5. Retired members ineligible for health insurance supplement [AMENDED]
Subchapter 25. Qualified Domestic Order
715:10-25-2. Filing a qualified domestic order [AMENDED]

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TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #08-488]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
725:1-1-4. General provisions for meetings of the Oklahoma Tourism and Recreation Commission [AMENDED]

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SUBMITTED TO HOUSE:
March 28, 2008
SUBMITTED TO SENATE:
March 28, 2008

[OAR Docket #08-488; filed 3-28-08]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 1. GENERAL

[OAR Docket #08-573]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 13. Printing and Publications
780:1-13-1. [AMENDED]

SUBMITTED TO GOVERNOR:
April 2, 2008
SUBMITTED TO HOUSE:
April 2, 2008
SUBMITTED TO SENATE:
April 2, 2008

[OAR Docket #08-573; filed 4-4-08]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 10. ADMINISTRATION AND SUPERVISION

[OAR Docket #08-574]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. State Technical Assistance, Supervision, and Services
780:10-3-2. [AMENDED]
780:10-3-3. [AMENDED]
780:10-3-11 [REVOKED]
780:10-3-12 [AMENDED]
Subchapter 9. Service Contracts and Equipment Guidelines
780:10-9-1. [AMENDED]

SUBMITTED TO GOVERNOR:
April 2, 2008
SUBMITTED TO HOUSE:
April 2, 2008
SUBMITTED TO SENATE:
April 2, 2008

[OAR Docket #08-574; filed 4-4-08]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 15. TECHNOLOGY CENTERS

[OAR Docket #08-575]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Technology Centers Education
780:15-3-1 [AMENDED]
780:15-3-2 [AMENDED]
780:15-3-4 [AMENDED]
780:15-3-6 [AMENDED]
780:15-3-7 [AMENDED]
780:15-3-8 [AMENDED]
SUBMITTED TO GOVERNOR:
April 2, 2008
SUBMITTED TO HOUSE:
April 2, 2008
SUBMITTED TO SENATE:
April 2, 2008

[OAR Docket #08-575; filed 4-4-08]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 20. PROGRAMS AND SERVICES

[OAR Docket #08-576]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
780:20-1-1 [AMENDED]
780:20-1-2 [NEW]
Subchapter 3. Secondary, Full-Time and Short-Term Adult *Career*Tech Progams
780:20-3-1 [AMENDED]
780:20-3-2 [AMENDED]
SUBMITTED TO GOVERNOR:
April 2, 2008
SUBMITTED TO HOUSE:
April 2, 2008
SUBMITTED TO SENATE:
April 2, 2008

[OAR Docket #08-576; filed 4-4-08]

Gubernatorial Approvals

Upon notification of approval by the Governor of an agency's proposed PERMANENT rulemaking action, the agency must submit a notice of such gubernatorial approval for publication in the *Register.*

For additional information on gubernatorial approvals, see 75 O.S., Section 303.2.

TITLE 165. CORPORATION COMMISSION CHAPTER 20. GAS AND HAZARDOUS LIQUID PIPELINE SAFETY

[OAR Docket #08-567]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 3. Pipeline Assessments
165:20-3-1 [AMENDED]
GUBERNATORIAL APPROVAL:
April 1, 2008

[OAR Docket #08-567; filed 4-4-08]

TITLE 165. CORPORATION COMMISSION CHAPTER 25. UNDERGROUND STORAGE ~~RULES~~ TANKS

[OAR Docket #08-568]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Chapter 25. Underground Storage ~~Rules~~ Tanks [AMENDED]
GUBERNATORIAL APPROVAL:
April 1, 2008

[OAR Docket #08-568; filed 4-4-08]

TITLE 185. CRIME VICTIMS COMPENSATION BOARD CHAPTER 1. ADMINISTATRIVE OPERATIONS

[OAR Docket #08-578]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Chapter 1. Administrative Operations [AMENDED]
GUBERNATORIAL APPROVAL:
April 1st, 2008

[OAR Docket #08-578; filed 4-7-08]

TITLE 185. CRIME VICTIMS COMPENSATION BOARD CHAPTER 10. CRIME VICTIMS COMPENSATION PROGRAM

[OAR Docket #08-579]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Chapter 10. Crime Victims Compensation Program [AMENDED]
GUBERNATORIAL APPROVAL:
April 1st, 2008

[OAR Docket #08-579; filed 4-7-08]

TITLE 185. CRIME VICTIMS COMPENSATION BOARD CHAPTER 15. SEXUAL ASSAULT EXAMINATION FUND

[OAR Docket #08-580]

RULEMAKING ACTION:
Gubernatorial Approval
RULES:
Chapter 15. Sexual Assault Examination Fund [AMENDED]
GUBERNATORIAL APPROVAL:
April 1st, 2008

[OAR Docket #08-580; filed 4-7-08]

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

[OAR Docket #08-583]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. General Provider Policies
Part 3. General Medical Program Information
317:30-3-57. [AMENDED]
Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-2. [AMENDED]

317:30-5-18. [AMENDED]
317:30-5-22. [AMENDED]
317:30-5-22.1. [NEW]
Part 3. Hospitals
317:30-5-44. [AMENDED]
Part 5. ~~Pharmacists~~ Pharmacies
317:30-5-86.1. [REVOKED]
Part 6. Inpatient Psychiatric Hospitals
317:30-5-95. [AMENDED]
317:30-5-95.7. [AMENDED]
317:30-5-95.16. through 317:30-5-95.17. [AMENDED]
317:30-5-95.19. [AMENDED]
317:30-5-95.22. [AMENDED]
317:30-5-95.24. [AMENDED]
317:30-5-95.31. [AMENDED]
317:30-5-95.33. through 317:30-5-95.36. [AMENDED]
317:30-5-95.39. [AMENDED]
317:30-5-95.41. through 317:30-5-95.42. [AMENDED]
317:30-5-96.2. [AMENDED]
Part 16. Maternal and Infant Health Licensed Clinical Social Workers [NEW]
317:30-5-204. through 317:30-5-209. [NEW]
Part 17. Medical Suppliers
317:30-5-210. [AMENDED]
317:30-5-211. [REVOKED]
317:30-5-211.1. through 317:30-5-211.16. [NEW]
317:30-5-212. [AMENDED]
317:30-5-215. [REVOKED]
317:30-5-216. [NEW]
317:30-5-217. through 317:30-5-218. [AMENDED]
Part 18. Genetic Counselors [NEW]
317:30-5-219. through 317:30-5-223. [NEW]
Part 61. Home Health Agencies
317:30-5-547. [AMENDED]
Part 63. Ambulatory Surgical Centers
317:30-5-568. [AMENDED]
(Reference APA WF # 07-01, 07-02, 07-11, 07-22, 07-38, 07-40, 07-41, 07-47, 07-48, 07-51, 07-65)

GUBERNATORIAL APPROVAL:
April 2, 2008

[OAR Docket #08-583; filed 4-7-08]

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

[OAR Docket #08-584]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 3. General Provider Policies
Part 3. General Medical Program Information
317:30-3-59. [AMENDED]
Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-9. [AMENDED]
317:30-5-20. [AMENDED]
Part 5. ~~Pharmacists~~ Pharmacies
317:30-5-70.2. [AMENDED]
317:30-5-72.1. [AMENDED]
Part 8. Rehabilitation Hospitals
317:30-5-111. [AMENDED]
Part 27. ~~Registered~~ Independent Licensed Physical Therapists
317:30-5-290. [REVOKED]
317:30-5-290.1. [NEW]
317:30-5-291. [AMENDED]
317:30-5-291.1. through 317:30-5-291.2. [NEW]
Part 28. Occupational Therapy Services [NEW]
317:30-5-295. through 317:30-5-298. [NEW]
Part 43. ~~Adult~~ Agency Companion, Specialized Foster Care, Daily Living Supports, Group Homes, and Community Transition Services
317:30-5-420. through 317:30-5-424. [AMENDED]
(Reference APA WF # 07-06, 07-15, 07-23, 07-28, 07-30 and 07-44)

GUBERNATORIAL APPROVAL:
April 2, 2008

[OAR Docket #08-584; filed 4-7-08]

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

[OAR Docket #08-585]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 5. Individual Providers and Specialties
Part 9. Long Term Care Facilities
317:30-5-123. [AMENDED]
317:30-5-131. [AMENDED]
317:30-5-133. [AMENDED]
Part 21. Outpatient Behavioral Health Services
317:30-5-240. [AMENDED]
317:30-5-248. [AMENDED]
Part 65. Case Management Services for Over 21
317:30-5-585. through 317:30-5-586.1. [AMENDED]
317:30-5-587. through 317:30-5-588. [REVOKED]
317:30-5-589. [AMENDED]
Part 67. Behavioral Health Case Management Services for Individuals Under 21 Years of Age
317:30-5-595. through 317:30-5-596.1. [AMENDED]
317:30-5-599. [AMENDED]
Part 83. Residential Behavioral Management Services in Foster Care Settings

317:30-5-740.1. [AMENDED]
317:30-5-742. through 317:30-5-742.2. [AMENDED]
317:30-5-743.1. [AMENDED]
317:30-5-746. [AMENDED]
Part 105. Residential Behavioral Management Services in Group Settings and Non-Secure Diagnostic and Evaluation Centers
317:30-5-1043. [AMENDED]
317:30-5-1046. [AMENDED]
(Reference APA WF # 07-07A, 07-09, 07-10, 07-12, 07-13, 07-14, and 07-17)

GUBERNATORIAL APPROVAL:
April 2, 2008

[OAR Docket #08-585; filed 4-7-08]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

[OAR Docket #08-582]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 5. Eligibility and Countable Income
Part 5. Countable Income and Resources
317:35-5-41. [AMENDED]
317:35-5-41.1. through 317:35-5-41.8. [NEW]
317: 35-5-41.10. through 317:35-5-41.11. [NEW]
317:35-5-45. through 317:35-5-47. [AMENDED]
317:35-5-49. [AMENDED]
Subchapter 9. ICF/MR, HCBW/MR, and Individuals Age 65 or Older in Mental Health Hospitals
Part 5. Determination of Medical Eligibility for ICF/MR, HCBW/MR, and Individuals Age 65 and Older in Mental Health Hospitals
317:35-9-48.1. [NEW]
Part 7. Determination of Financial Eligibility
317:35-9-65. [AMENDED]
317:35-9-68. [AMENDED]
Subchapter 17. ADvantage Waiver Services
317:35-17-9. [AMENDED]
Subchapter 19. Nursing Facility Services
317:35-19-19. [AMENDED]
317:35-19-21. [AMENDED]
(Reference APA WF # 07-21 and 07-24)

GUBERNATORIAL APPROVAL:
April 2, 2008

[OAR Docket #08-582; filed 4-7-08]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

[OAR Docket #08-586]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 5. Eligibility and Countable Income
Part 1. Determination of Qualifying Categorical Relationships
317:35-5-2. [AMENDED]
317:35-5-6.1. [NEW]
317:35-5-8. [AMENDED]
Part 3. Non-Medical Eligibility Requirements
317:35-5-25. [AMENDED]
317:35-5-26. [AMENDED]
Part 5. Countable Income and Resources
317:35-5-41.9. [NEW]
Subchapter 6. SoonerCare Health Benefits for Categorically Needy Pregnant Women and Families with Children
Part 3. Application Procedures
317:35-6-15. [AMENDED]
Subchapter 7. Medical Services
Part 3. Application Procedures
317:35-7-15. [AMENDED]
Part 5. Determination of Eligibility for Medical Services
317:35-7-48. [AMENDED]
Subchapter 9. ICF/MR, HCBW/MR, and Individuals Age 65 or Older in Mental Health Hospitals
Part 2. Medicaid Recovery Program
317:35-9-15. [AMENDED]
Part 5. Determination of Medical Eligibility for ICF/MR, HCBW/MR, and Individuals Age 65 or Older in Mental Health Hospitals
317:35-9-45. [AMENDED]
Part 7. Determination of Financial Eligibility
317:35-9-67. [AMENDED]
Subchapter 17. ADvantage Waiver Services
317:35-17-10. [AMENDED]
Subchapter 19. Nursing Facility Services
317:35-19-4. [AMENDED]
317:35-19-9. [AMENDED]
317:35-19-14. [AMENDED]
317:35-19-16. [AMENDED]
317:35-19-18. [AMENDED]
317:35-19-20. [AMENDED]
Subchapter 22. Pregnancy Related Benefits Covered under Title XXI [NEW]
317:35-22-1. through 317:35-22-11. [NEW]
(Reference APA WF # 07-07B, 07-25, 07-46, 07-50, 07-57 and 07-58)

GUBERNATORIAL APPROVAL:
April 2, 2008

[OAR Docket #08-586; filed 4-7-08]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 45. OKLAHOMA EMPLOYER AND EMPLOYEE PARTNERSHIP FOR INSURANCE COVERAGE

[OAR Docket #08-581]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 9. O-EPIC PA Employee Eligibility
317:45-9-1. [AMENDED]
Subchapter 11. O-EPIC IP
Part 3. O-EPIC IP Member Health Care Benefits
317:45-11-11. [AMENDED]
Part 5. O-EPIC Individual Plan Member Eligibility
317:45-11-20. [AMENDED]
317:45-11-21.1. [NEW]
(Reference APA WF # 07-19, 07-39 AND 07-53)
GUBERNATORIAL APPROVAL:
April 2, 2008

[OAR Docket #08-581; filed 4-7-08]

TITLE 318. HIGHWAY CONSTRUCTION MATERIALS TECHNICIAN CERTIFICATION BOARD
CHAPTER 10. EXAMINATION AND CERTIFICATION

[OAR Docket #08-598]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
318:10-1-1. Purpose [AMENDED]
318:10-1-3.1. Training of personnel not seeking certification [NEW]
318:10-1-4. Examination criteria [AMENDED]
318:10-1-11. Fees [AMENDED]
GUBERNATORIAL APPROVAL:
March 11, 2008

[OAR Docket #08-598; filed 4-8-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE

[OAR Docket #08-538]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 1.General Provisions of Child Welfare Services
Part 1. Scope and Applicability
340:75-1-16 through 340:75-1-18.1 [AMENDED]
340:75-1-20 [AMENDED]
Subchapter 6. Permanency Planning
Part 8. Role of the Child Welfare Worker
340:75-6-48 [AMENDED]
Part 11. Permanency Planning and Placement Services
340:75-6-85 [AMENDED]
Subchapter 13. Other Child Welfare Services and Medical Services for Children in Out-of-Home Care
Part 1. Eligibility for Substitute Care Services and Claims for Payment
340:75-13-9 [AMENDED]
Part 2. Title IV-E Eligibility and Reimbursability
340:75-13-13 [AMENDED]
340:75-13-15 [AMENDED]
Subchapter 15. Adoptions
Part 2. Legal Base and Scope of the Adoption Program
340:75-15-5 [AMENDED]
Part 6. Adoption Process
340:75-15-41 [AMENDED]
Part 8. Adoptive Placement Process
340:75-15-61 [AMENDED]
Part 10. Adoptive Family Assessment and Preparation Process
340:75-15-84 [AMENDED]
340:75-15-87 [AMENDED]
Part 14. Post Adoption Services
340:75-15-128.2 [AMENDED]
(Reference APA WF 07-22 and 07-34)
GUBERNATORIAL APPROVAL:
March 1, 2008

[OAR Docket #08-538; filed 3-31-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES DIVISION

[OAR Docket #08-541]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 3. Administration

Part 1. General Administration
340:100-3-1 [AMENDED]
340:100-3-6 [AMENDED]
340:100-3-15 [AMENDED]
Part 3. Operations
340:100-3-27 [AMENDED]
340:100-3-27.5 [AMENDED]
340:100-3-28 [AMENDED]
340:100-3-38 through 340:100-3-38.8 [AMENDED]
340:100-3-38.12 [AMENDED]
340:100-3-38.13 [NEW]
340:100-3-40 through 340:100-3-40.1 [AMENDED]
Subchapter 5. Client Services
Part 3. Service Provisions
340:100-5-20 [REVOKED]
340:100-5-22.1 [AMENDED]
340:100-5-26 through 340:100-5-26.1 [AMENDED]
340:100-5-29 [AMENDED]
340:100-5-32 through 340:100-5-33 [AMENDED]
Part 5. Individual Planning
340:100-5-51 [AMENDED]
340:100-5-53 [AMENDED]
340:100-5-57 through 340:100-5-57.1 [AMENDED]
Subchapter 13. Family Support Programs
340:100-13-1 [AMENDED]
Subchapter 17. Employment Services
Part 3. State-Funded Employment (Sheltered Workshop) Services
340:100-17-17 [AMENDED]
Part 4. Community Integrated Employment Services
340:100-17-25 [AMENDED]
(Reference APA WF 07-23)

GUBERNATORIAL APPROVAL:
March 1, 2008

[OAR Docket #08-541; filed 3-31-08]

TITLE 600. REAL ESTATE APPRAISER BOARD
CHAPTER 10. LICENSURE AND CERTIFICATION REQUIREMENTS

[OAR Docket #08-604]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
600:10-1-8. Course approval requirements [AMENDED]
600:10-1-12. Inactive status - annual fee payment [AMENDED]
600:10-1-14. Reinstatement of license or certification [AMENDED]

GUBERNATORIAL APPROVAL:
March 11, 2008

[OAR Docket #08-604; filed 4-9-08]

TITLE 600. REAL ESTATE APPRAISER BOARD
CHAPTER 15. DISCIPLINARY PROCEDURES

[OAR Docket #08-605]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
600:15-1-2. Definitions [AMENDED]
600:15-1-4. Grievance procedure [AMENDED]
600:15-1-12. Failure to appear [AMENDED]
600:15-1-19. Record of hearing [AMENDED]

GUBERNATORIAL APPROVAL:
March 11, 2008

[OAR Docket #08-605; filed 4-9-08]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION
CHAPTER 11. USED MOTOR VEHICLE REBUILDERS

[OAR Docket #08-599]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 1. Licensing Qualifications, Procedures and Fees
765:11-1-2 [AMENDED]
Subchapter 3. Authority
765:11-3-1 [AMENDED]
765:11-3-2 [AMENDED]
765:11-3-4 [REVOKED]
Subchapter 5. Assessment of Fine or Denial, Suspension, or Revocation of License
765:11-5-1 [AMENDED]
765:11-5-2 [AMENDED]

GUBERNATORIAL APPROVAL:
March 26, 2008

[OAR Docket #08-599; filed 4-8-08]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 12. SALVAGE POOLS AND SALVAGE DISPOSAL SALES

[OAR Docket #08-600]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. Licensing Qualifications, Procedures and Fees [NEW]
765:12-1-1 [NEW]
765:12-1-2 [NEW]
765:12-1-3 [NEW]
765:12-1-4 [NEW]
Subchapter 5. Permitted Buyers [NEW]
765:12-5-1 [NEW]
765:12-5-2 [NEW]
Subchapter 7. Reports [NEW]
765:12-7-1 [NEW]
765:12-7-2 [NEW]
765:12-7-3 [NEW]
Subchapter 9. Payments to the Commission [NEW]
765:12-9-1 [NEW]
GUBERNATORIAL APPROVAL:
March 26, 2008

[OAR Docket #08-600; filed 4-8-08]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 13. TEMPORARY LICENSE PLATES

[OAR Docket #08-601]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. Application [NEW]
765:13-1-1 [NEW]
Subchapter 3. Design [NEW]
765:13-3-1 [NEW]
765:13-3-2 [NEW]
765:13-3-3 [NEW]
765:13-3-4 [NEW]
GUBERNATORIAL APPROVAL:
March 26, 2008

[OAR Docket #08-601; filed 4-8-08]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 30. BUYER'S IDENTIFICATION CARDS [REVOKED]

[OAR Docket #08-602]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. Licensing Qualifications, Procedures and Fees [REVOKED]
765:30-1-1 [REVOKED]
765:30-1-2 [REVOKED]
765:30-1-3 [REVOKED]
765:30-1-4 [REVOKED]
765:30-1-5 [REVOKED]
765:30-1-6 [REVOKED]
765:30-1-7 [REVOKED]
Subchapter 3. Assessment of Fine or Denial, Suspension, or Revcation of Bid Card [REVOKED]
765:30-3-1 [REVOKED]
765:30-3-2 [REVOKED]
Subchapter 5. Reciprocity [REVOKED]
765:30-5-1 [REVOKED]
Subchapter 7. Salvage Pools and Salvage Disposal Sales [REVOKED]
765:30-7-1 [REVOKED]
765:30-7-2 [REVOKED]
765:30-7-3 [REVOKED]
GUBERNATORIAL APPROVAL:
February 22, 2008
SUBMITTED TO HOUSE:
February 22, 2008
SUBMITTED TO SENATE:
March 26, 2008

[OAR Docket #08-602; filed 4-8-08]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 1. ORGANIZATION AND PROCEDURE OF OKLAHOMA WATER RESOURCES BOARD

[OAR Docket #08-587]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. Organization, Meetings and Comprehensive Water Plan
785:1-3-2. Purpose of the Board [AMENDED]

GUBERNATORIAL APPROVAL:
April 2, 2008

[OAR Docket #08-587; filed 4-7-08]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 4. RULES OF PRACTICE AND HEARINGS

[OAR Docket #08-588]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Pre-Hearing Actions and Proceedings
785:4-5-1.1. Mediation [NEW]
GUBERNATORIAL APPROVAL:
April 2, 2008

[OAR Docket #08-588; filed 4-7-08]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 5. FEES

[OAR Docket #08-589]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
785:5-1-6. Stream water permit application and administration fees [AMENDED]
785:5-1-10. Groundwater application fees [AMENDED]
GUBERNATORIAL APPROVAL:
April 2, 2008

[OAR Docket #08-589; filed 4-7-08]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 20. APPROPRIATION AND USE OF STREAM WATER

[OAR Docket #08-590]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
785:20-1-2. Definitions [AMENDED]
GUBERNATORIAL APPROVAL:
April 2, 2008

[OAR Docket #08-590; filed 4-7-08]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 25. DAMS AND RESERVOIRS

[OAR Docket #08-591]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 7. Post Approval Actions
785:25-7-8. Certificate of completion [AMENDED]
Subchapter 9. Actions After Construction
785:25-9-1. Inspections of dams [AMENDED]
GUBERNATORIAL APPROVAL:
April 2, 2008

[OAR Docket #08-591; filed 4-7-08]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 30. TAKING AND USE OF GROUNDWATER

[OAR Docket #08-592]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
785:30-1-2. Definitions [AMENDED]
GUBERNATORIAL APPROVAL:
April 2, 2008

[OAR Docket #08-592; filed 4-7-08]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 35. WELL DRILLER AND PUMP INSTALLER LICENSING

[OAR Docket #08-593]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
785:35-1-2. Definitions [AMENDED]
Subchapter 3. Licensing and Certifications
785:35-3-2. Expiration and renewal of licenses and certifications [AMENDED]

Subchapter 5. General Requirements to Maintain Licenses and Operator Certifications
785:35-5-3. Requirements for multi-purpose completion report [AMENDED]
Subchapter 7. Minimum Standards for Construction of Wells
785:35-7-1. Minimum standards for construction of groundwater wells, fresh water observation wells, and water well test holes [AMENDED]
785:35-7-1.1. Minimum standards for construction of heat exchange wells [AMENDED]
Subchapter 9. Minimum Standards for Pump Installation
785:35-9-1. Minimum standards for pump installation [AMENDED]
Subchapter 11. Plugging and Capping Requirements for Wells and Test Holes
785:35-11-1. Plugging and capping requirements for groundwater wells, fresh water observation wells, heat exchange wells and water well test holes [AMENDED]
785:35-11-2. Plugging requirements for site assessment observation wells, monitoring wells and geotechnical borings [AMENDED]

GUBERNATORIAL APPROVAL:
April 2, 2008

[OAR Docket #08-593; filed 4-7-08]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 45. OKLAHOMA'S WATER QUALITY STANDARDS

[OAR Docket #08-594]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 1. General Provisions
785:45-1-2. Definitions [AMENDED]
Subchapter 5. Surface Water Quality Standards
Part 1. General Provisions
785:45-5-3. Beneficial uses: default designations [AMENDED]
Part 3. Beneficial Uses and Criteria to Protect Uses
785:45-5-13. Agriculture~~: livestock and irrigation~~ [AMENDED]
785:45-5-19. Aesthetics [AMENDED]
Appendix A. Designated Beneficial Uses for Surface Waters [REVOKED]
Appendix A. Designated Beneficial Uses for Surface Waters [NEW]
Appendix A.1. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 1, Middle Arkansas River [REVOKED]
Appendix A.1. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 1, Middle Arkansas River [NEW]
Appendix A.2. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 2, Lower Arkansas River Basin [REVOKED]
Appendix A.2. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 2, Lower Arkansas River Basin [NEW]
Appendix A.3. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 3, Upper Red River Basin [REVOKED]
Appendix A.3. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 3, Upper Red River Basin [NEW]
Appendix A.4. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 4, Lower Red River [REVOKED]
Appendix A.4. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 4, Lower Red River [NEW]
Appendix A.5. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 5, Canadian River [REVOKED]
Appendix A.5. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 5, Canadian River [NEW]
Appendix A.6. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 6, Upper Arkansas River [REVOKED]
Appendix A.6. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 6, Upper Arkansas River [NEW]
Appendix E. Requirements for Development of Site-Specific Criteria for Certain Parameters [REVOKED]
Appendix E. Requirements for Development of Site-Specific Criteria for Certain Parameters [NEW]
Appendix F. Statistical Values of the Historical Data for Mineral Constituents of Water Quality (Beginning October 1976 Ending September 1983, Except As Indicated) [REVOKED]
Appendix F. Statistical Values of the Historical Data for Mineral Constituents of Water Quality (Beginning October 1976 Ending September 1983, Except As Indicated) [NEW]

GUBERNATORIAL APPROVAL:
April 2, 2008

[OAR Docket #08-594; filed 4-7-08]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 46. IMPLEMENTATION OF OKLAHOMA'S WATER QUALITY STANDARDS

[OAR Docket #08-595]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
785:46-1-2. Definitions [AMENDED]
Subchapter 3. Implementation of Narrative Toxics Criteria to Protect Aquatic Life Using Whole Effluent Toxicity (WET) Testing
785:46-3-2. Dilutions for whole effluent toxicity testing [AMENDED]
Subchapter 11. Implementation of Temperature Criteria to Protect Fish and Wildlife Propagation
785:46-11-3. Regulatory flows [AMENDED]
Subchapter 15. Use Support Assessment Protocols
785:46-15-1. Scope and applicability [AMENDED]
785:46-15-2. Definitions [AMENDED]
785:46-15-4. Default protocols [AMENDED]
785:46-15-5. Assessment of Fish and Wildlife Propagation support [AMENDED]
785:46-15-6. Assessment of Primary Body Contact Recreation support [AMENDED]
785:46-15-7. Assessment of Public and Private Water Supply support [AMENDED]
785:46-15-8. Assessment of Agriculture support [AMENDED]
785:46-15-10. Nutrients [AMENDED]
785:46-15-14. Assessment of Aesthetics support [NEW]
Subchapter 17. OWRB Water Quality Standards Implementation Plan
785:46-17-2. Definitions [AMENDED]
785:46-17-3. Processes to ensure compliance with antidegradation standards and leading to maintenance of, removal of threats to, and restoration of beneficial uses [AMENDED]
785:46-17-10. Evaluation of effectiveness [AMENDED]
Appendix D. Summary of Comments on OWRB's Water Quality Standards Implementation Plan [REVOKED]
Appendix D. Summary of Comments on OWRB's Water Quality Standards Implementation Plan [NEW]
GUBERNATORIAL APPROVAL:
April 2, 2008

[OAR Docket #08-595; filed 4-7-08]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 50. FINANCIAL ASSISTANCE

[OAR Docket #08-596]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 8. Rural Economic Action Plan (REAP) Grant Program Requirements and Procedures
785:50-8-5. REAP grant priority point system [AMENDED]
Subchapter 9. Clean Water State Revolving Fund Regulations
Part 1. General Provisions
785:50-9-9. Definitions [AMENDED]
Part 3. General Program Requirements
785:50-9-27. Types of assistance [AMENDED]
GUBERNATORIAL APPROVAL:
April 2, 2008

[OAR Docket #08-596; filed 4-7-08]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 55. DEVELOPMENT ON STATE OWNED OR OPERATED PROPERTY WITHIN FLOODPLAINS AND FLOODPLAIN ADMINISTRATOR ACCREDITATION

[OAR Docket #08-597]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 7. Floodplain Administrator Accreditation Program
785:55-7-3. Designation of floodplain administrator [AMENDED]
785:55-7-5. Temporary accreditation period; first full accreditation period [REVOKED]
785:55-7-6. Vacancies and replacement of floodplain administrators; notice to Board [AMENDED]
785:55-7-7. Accreditation application [AMENDED]
785:55-7-9. Expiration of accreditation and renewal of accreditation [AMENDED]
GUBERNATORIAL APPROVAL:
April 2, 2008

[OAR Docket #08-597; filed 4-7-08]

Withdrawn Rules

An agency may withdraw proposed PERMANENT rules prior to final adoption (approval by Governor/Legislature) by notifying the Governor and the Legislature and by publishing a notice in the *Register* of such a withdrawal.

An agency may withdraw proposed EMERGENCY rules prior to approval/disapproval by the Governor by notifying the Governor, the Legislature, and the Office of Administrative Rules. The withdrawal notice is not published in the *Register*, however, unless the agency published a Notice of Rulemaking Intent in the *Register* before adopting the EMERGENCY rules.

For additional information on withdrawal of proposed rules, see 75 O.S., Section 308(F) and 253(K) and OAC 655:10-7-33.

TITLE 695. OVERSIGHT COMMITTEE FOR STATE EMPLOYEE CHARITABLE CONTRIBUTIONS
CHAPTER 10. OKLAHOMA STATE CHARITABLE CAMPAIGN RULES

[OAR Docket #08-556]

RULEMAKING ACTION:
Withdrawal of PERMANENT rulemaking
WITHDRAWN RULE:
Subchapter 5. Conduct of the Charitable Campaign
695:10-5-4 [AMENDED]
DATES:
Adoption:
February 13, 2008
Submitted to Governor:
February 22, 2008
Submitted to House:
February 22, 2008
Submitted to Senate:
February 22, 2008
Withdrawn:
March 31, 2008

[OAR Docket #08-556; filed 4-1-08]

TITLE 775. BOARD OF VETERINARY MEDICAL EXAMINERS
CHAPTER 25. RECORDKEEPING AND SUPERVISION REQUIREMENTS

[OAR Docket #08-553]

RULEMAKING ACTION:
Withdrawal of Permanent rulemaking
WITHDRAWN RULES:
775:25-1-2. Patient records. [AMENDED]
DATES:
Adoption:
March 7, 2008
SUBMITTED TO GOVERNOR:
March 12, 2008
SUBMITTED TO HOUSE:
March 12, 2008
SUBMITTED TO SENATE:
March 12, 2008
WITHDRAWN:
March 31, 2008

[OAR Docket #08-553; filed 4-1-08]

Permanent Final Adoptions

An agency may promulgate rules on a permanent basis upon "final adoption" of the proposed new, amended, or revoked rules. "Final adoption" occurs upon approval by the Governor and the Legislature, or upon enactment of a joint resolution of approval by the Legislature. Before proposed permanent rules can be reviewed and approved/disapproved by the Governor and the Legislature, the agency must provide the public an opportunity for input by publishing a Notice of Rulemaking Intent in the *Register.*

Permanent rules are effective ten days after publication in the *Register*, or on a later date specified by the agency in the preamble of the permanent rule document.

Permanent rules are published in the *Oklahoma Administrative Code*, along with a source note entry that references the *Register* publication of the permanent action.

For additional information on the permanent rulemaking process, see 75 O.S., Sections 303, 303.1, 303.2, 308 and 308.1.

TITLE 155. OKLAHOMA CONSERVATION COMMISSION
CHAPTER 25. CLEAN WATER STATE REVOLVING FUND PROGRAM

[OAR Docket #08-558]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
155:25-1-1. Purpose [NEW]
155:25-1-2. Receiving and Reviewing Applications [NEW]
AUTHORITY:
Oklahoma Conservation Commission; 27A O.S. 2001, § 3-2-106 and 82 O.S. Supp. 2006, § 1085.65
DATES:
Comment Period:
November 1, 2007, to December 3, 2007.
Public Hearing:
None held or requested.
Adoption:
January 7, 2008
Submitted to Governor:
January 8, 2008
Submitted to House:
January 8, 2008
Submitted to Senate:
January 8, 2008
Gubernatorial Approval:
February 1, 2008
Legislative Approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2008
Final Adoption:
March 27, 2008
Effective:
May 11, 2008
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
155:25-1-1. Purpose [NEW]
155:25-1-2. Receiving and Reviewing Applications [NEW]
Gubernatorial Approval:
August 8, 2007
Register Publication:
25 OkReg 7
Docket Number:
07-1353
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The proposed new rules would supersede emergency rules to implement 82 O.S. § 1085.65 which requires the OCC to promulgate rules to receive, and review applications for water quality projects submitted to the Clean Water State Revolving Fund Program for implementation of nonpoint source management programs as allowed by the federal Water Quality Act of 1987 for those activities subject to its jurisdiction as specified in the Oklahoma Environmental Quality Act. This rule specifies the process for such receipt and review.

CONTACT PERSON:
Ben Pollard, Assistant Director, Oklahoma Conservation Commission, 2800 N. Lincoln, Suite 160,Oklahoma City, Oklahoma 73105, (405)521-2384, FAX(405)521-6686 or via electronic mail at ben.pollard@conservation.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2008:

155:25-1-1. Purpose

Title 82 O.S. § 1085.65 requires the Oklahoma Conservation Commission (OCC or Commission) to promulgate rules to receive, and review applications for water quality projects submitted to the Clean Water State Revolving Fund Program for implementation of nonpoint source management programs as allowed by the federal Water Quality Act of 1987 for those activities subject to its jurisdiction as specified in the Oklahoma Environmental Quality Act. This rule specifies the process for such receipt and review.

155:25-1-2. Receiving and Reviewing Applications

(a) Applications and requests for funding for projects for nonpoint source management programs shall be filed with the Oklahoma Water Resources Board (OWRB). If the application meets the preliminary determination of eligibility the OWRB will forward the application to the OCC.

(b) The OCC'S Water Quality Division (OCCWQ) will review the application or request and determine whether the project meets or will meet a critical local or state need, as defined in the State Nonpoint Source Assessment and Management Report, is needed or will be needed to comply with the State Nonpoint Source Assessment and Management Report, is designed to prevent, reduce or halt the pollution of the waters of this state and comply with Oklahoma's Water Quality Standards, is cost-effective, and is designed to be awarded upon a cost-share basis.

(c) The Commission shall consult with and obtain comments of the Executive Director of the Department of Environmental Quality prior to making a recommendation on all applications and programs that may involve nonpoint sources subject to the jurisdiction of the Department of Environmental Quality. The Department of Environmental Quality's comments shall be addressed in the recommendation or attached thereto.

(d) Upon a determination that the proposed project meets the minimum criteria set forth in (b) above, the proposed project shall be placed on the Commission's list of approved projects. Said list, and the application or request will be submitted to the OWRB with a recommendation that a loan(s) be made for the project(s).

(e) OCC will make its determination with respect to whether a proposed project meets the minimum criteria set forth in (b) above and, if deciding to place the proposed project on the Commission's list of approved projects, will submit the list, the application or request and recommendation to the OWRB within thirty (30) days of receipt of the application or request from OWRB as set forth in (a) above. If recommending that a loan be denied for the proposed project, OCC will submit the application or request and recommendation to the OWRB within thirty (30) days of receipt of the application or request from OWRB as set forth in (a) above.

[OAR Docket #08-558; filed 4-2-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES

[OAR Docket #08-622]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Child Nutrition Programs
Part 11. Food of Minimal Nutritional Value [NEW]
210:10-3-111. Restricting access to foods of minimal nutritional value [NEW]
AUTHORITY:
70 O. S. § 3-104, State Board of Education
DATES:
Comment period:
November 15, 2007 through December 17, 2007
Public hearing:
December 18, 2007
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December 18, 2007
Submitted to Governor:
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January 28, 2008
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Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2008
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March 27, 2008
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May 12, 2008
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 3. Child Nutrition Programs
Part 11. Food of Minimal Nutritional Value [NEW]
210:10-3-111. Restricting access to foods of minimal nutritional value [NEW]
Gubernatorial approval:
June 5, 2007
Register Publication:
24 Ok Reg 2733
Docket Number:
07-1311
INCORPORATION BY REFERENCE:
N/A
ANALYSIS:
The proposed rule would result in a decrease in the availability of foods of minimal nutritional value and an increase in foods of nutritional value. The result would ultimately have a favorable impact on student health.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2008:

SUBCHAPTER 3. CHILD NUTRITION PROGRAMS

PART 11. FOODS OF MINIMAL NUTRITIONAL VALUE

210:10-3-111. Restricting access to foods of minimal nutritional value

This section contains rules related to the limiting of student access to foods of minimal nutritional value, as provided in 70 O.S. § 5-147.

(1) Each district board of education shall ensure that students in elementary school facilities are not provided foods of minimal nutritional value except on special occasions. (70 O.S. § 5-147)

(2) Each district board of education shall ensure that students in middle and junior high school facilities are not provided foods of minimal nutritional value except after school, at events which take place in the evening, and on special occasions. An exception to the minimal nutritional value standard will be diet soda with less than ten (10) calories per bottle or can.

(3) Each district board of education shall ensure that students in high school facilities are provided healthy food options in addition to any foods of minimal nutritional value to which they may have access at school. Each district shall provide incentives, such as lower prices or other incentives, to encourage healthy food choice for high school students.

(4) For purpose of this section, "foods of minimal nutritional value" means any food so defined in 7 CFR 210.11 and listed in Appendix B of the regulations for the National School Lunch Program.

(5) There may be exceptions to the above-named rules in certain instances. For example, foods of minimal nutritional value may be allowed when used as part of an instructional program, when prescribed by a physical or as part of a student's individualized education program (IEP), when part of a lunch brought from home, or when used as

an ingredient in a special recipe, e.g., cup cakes with jelly-beans, sweet potatoes with marshmallow topping, etc.

[OAR Docket #08-622; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES

[OAR Docket #08-621]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 13. Student Assessment
210:10-13-2. Oklahoma School Testing Program (OSTP) scope and general administration [AMENDED]
AUTHORITY:
70 O. S. § 3-104, State Board of Education
DATES:
Comment period:
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SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 13. Student Assessment
210:10-13-2. Oklahoma School Testing Program (OSTP) scope and general administration [AMENDED]
Gubernatorial approval:
September 4, 2007
Register Publication:
25 Ok Reg 79
Docket Number:
07-1393
INCORPORATION BY REFERENCE:
N/A
ANALYSIS:
The proposed rule amendments will provide a description of the requirements to be met by school districts and the State Department of Education as relates to remediation of students who do not score at least satisfactory on the seventh grade Criterion-Referenced Tests in reading and mathematics and the eighth grade Criterion-Referenced Tests in reading and mathematics. The changes will provide public school educators with the guidance necessary to achieve further improvements in the quality of education for Oklahoma students.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2008:

SUBCHAPTER 13. STUDENT ASSESSMENT

210:10-13-2. Oklahoma School Testing Program (OSTP) scope and general administration

(a) All public school districts shall administer the state mandated academic achievement tests of the OSTP to all students enrolled in the designated grades. The series of tests shall be field-tested/implemented by the amended schedule in Title 70 O.S., Section 1210.508, or federal law.

(1) Students with Individualized Education Programs (IEPs) shall have an appropriate statement on the IEP requiring administration of the general assessment with or without accommodations or an alternate assessment as part of the Oklahoma School Testing Program (OSTP). Any accommodations normally employed and needed must exist on the IEP. All documentation for each student shall be on file in the local school before tests are administered.

(2) All students who have been determined to be limited English proficient (LEP), also known as English language learners (ELL), as identified in Public Law 107-110 shall be included in all of the state-mandated academic achievement tests of the OSTP. ELL students are those who have been appropriately identified, through English proficiency screening by the local school districts, as requiring specialized instructional services designed to increase their English proficiency and academic performance. For every student identified as ELL, the local district shall have on file verification that the student is receiving special instruction designed for the specific purpose of improving the ELL student's English proficiency.

(A) Students identified as ELL shall be assessed in a valid and reliable manner with the state academic assessments with acceptable accommodations as necessary and, to the extent practicable, with alternate assessments aligned to the state assessment provided by the local school district in the language and form most likely to yield accurate data on what such students know and can do in these content areas; these alternate assessments will continue until such students have achieved English language proficiency with the exception noted in paragraph (B).

(B) If ELL students are administered the state-mandated reading and language arts achievement tests in a language other than English, this will be allowed only during their first three consecutive years of school attendance in the United States (not including Puerto Rico). After these first three years these tests must be administered in English, except that if the local school district determines on a case-by-case basis, that a student has not yet reached a level of English language proficiency that will allow valid and reliable information to be obtained, even

with testing accommodations, in which case individual waivers will be allowed by the local district for up to two additional consecutive years, according to federal law.

(b) On an annual basis, school superintendents or their designees shall provide a copy of the State Board of Education Rules, OAC 210:10-13, for all school personnel responsible for receipt, inventory, distribution, or return of tests documents, and/or for administration of tests within the Oklahoma School Testing Program.

(c) Districts may request special reports beyond those provided by state contract with the testing company at their own cost (i.e., individual student records on CD or disk, District Title I Report, District Alpha Order Report, etc.).

(d) Test results of all students not enrolled in a district for a full academic year shall be disaggregated and shall not be used to determine the progress of the district, according to federal law. Test results of all students not enrolled in a school site for a full academic year shall be disaggregated and shall not be used to determine the progress of the school site, according to federal law. "Full Academic Year" is defined as continuous enrollment for two full consecutive semesters (i.e., from yearly test date to test date), except in the case of certain school, district, or instructional configurations where the definition is "continuous enrollment from the first day of the school." The specified school, district or instructional configurations where the later definition applies are as follows:

(1) when students move sequentially to the next higher grade in transition years from one site to the next within a district;

(2) when students move sequentially to the next higher grade in transition years from an elementary district to a K-12 district;

(3) when schools are held accountable for student competencies acquired in a specified course of instruction assessed by End-of-Instruction Tests.

(e) Test results of all students who have been placed in a facility within a district by state- or court-order, shall not be used to determine the progress of the site or the district. Instead their scores will be used in accountability calculations in one statewide "virtual" district.

(f) Each public school student who does not score at least at the satisfactory level on state criterion-referenced tests in reading and mathematics by the end of the student's seventh grade year shall be provided remediation for the purpose of assisting the student in performing at least at the satisfactory level on the eighth-grade criterion-referenced tests in reading and mathematics. Each public school student who does not score at least at the satisfactory level on state criterion-referenced tests in reading and mathematics by the end of the student's eighth grade year shall be provided remediation for the purpose of assisting the student in performing at least at the satisfactory level on the end-of-instruction tests administered in high school.

(1) Districts and/or schools may provide remediation through extended instructional time during the school day, a summer academy, tutoring, online coursework, or other supplementary services. Remediation is not limited to these practices.

(2) Remediation provided through instructional time during the school day, a summer academy, or school-based tutoring shall be under the supervision of a highly qualified teacher in mathematics or reading, as appropriate.

(3) The State Department of Education (SDE) shall provide information about best practices for remediation and interventions on the SDE website.

(4) Beginning spring 2007 and each year thereafter, a district plan of remediation shall be submitted to the State Department of Education's online reporting site for students who do not score at least at the satisfactory level on the seventh grade criterion-referenced tests in reading and mathematics. Beginning spring 2008 and each year thereafter, a district plan of remediation shall be submitted for students who do not score at least at the satisfactory level on the eighth grade criterion-referenced tests in reading and mathematics. Plans shall be reviewed and approved prior to release of state funds allocated for remediation.

(5) The per-student dollar amount shall be determined by the State Board of Education after the total number of students who qualify for remediation funding have been identified by final scores on the state criterion-references tests in reading and mathematics.

(6) Upon State Department of Education approval of the district remediation plan, to include estimated expenditures and assurances, funds shall be released to the district on a per-student basis for the costs associated with providing remediation. Any unallocated funds remaining at the end of the fiscal year shall return to the general fund.

(7) School districts shall monitor the results of the remediation, as measured by periodic progress assessments, and submit the findings annually to the State Department of Education's online reporting site. State Department of Education regional accreditation officers shall assist districts in compliance with reporting requirements.

(8) Any district not showing adequate improvement shall be required to submit a detailed plan of improvement for remediation programs and may be subject to onsite monitoring by the State Department of Education. Adequate improvement shall be defined as the percentage of students provided remediation that are not successful on the eighth grade criterion-referenced tests in reading and mathematics, as compared with a targeted percentage of improvement established by the State Board of Education.

[OAR Docket #08-621; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES

[OAR Docket #08-623]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 17. Federal Programs Complaint Procedures
210:10-17-1. Complaint procedures [AMENDED]

AUTHORITY:
70 O. S. § 3-104, State Board of Education
DATES:
Comment period:
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Public hearing:
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December 20, 2007
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December 20, 2007
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January 28, 2008
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Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2008
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SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 17. Federal Programs Complaint Procedures
210:10-17-1. Complaint procedures [AMENDED]
Gubernatorial approval:
August 3, 2007
Register Publication:
25 Ok Reg 8
Docket Number:
07-1367
INCORPORATION BY REFERENCE:
N/A
ANALYSIS:
Proposed rule amendments will update all current federal programs related to the reauthorization of the Elementary and Secondary Education Act (ESEA), which is Public Law 107-110, the *No Child Left Behind Act of 2001*.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2008:

SUBCHAPTER 17. FEDERAL PROGRAMS COMPLAINT PROCEDURES

210:10-17-1. Complaint procedures

(a) **Purpose.** Federal programs regulations (34CFR Part 299, Subpart F S299.10-12) pertaining to programs under the reauthorized Elementary-Secondary Education Act require the State Education Agency (SEA) to adopt written procedures, consistent with state law, for:

(1) Receiving and resolving any complaint from an organization or individual that the SEA or an agency or consortium of agencies is violating a Federal statute or regulations that apply to a covered program listed in subsection (b) of this section.

(2) Reviewing an appeal from a decision of an agency or consortium of agencies with respect to a complaint; and

(3) Conducting an independent on-site investigation of a complaint if the SEA determines that an on-site investigation is necessary.

(b) **Covered programs.** Programs covered by this section are the following:

(1) Part A of Title I (Improving Basic Programs Operated by Local Education Agencies).

(2) Subpart I of Part B of Title I (Reading First)

(~~2~~3) Subpart 3 of Part B of Title I (Even Start Family Literacy Programs).

(~~3~~4) Part C of Title I (Migrant Education).

(~~4~~5) Part D of Title I ~~(Children and Youth Who Are Neglected, Delinquent, or At Risk of Dropping Out).~~(Neglected and Delinquent).

(6) Part F of Title I (Comprehensive School Reform)

(~~5~~7) Part A of Title II ~~(Eisenhower Professional Development Program; other than section 2103 and part C of this title).~~(Teacher and Principal Training and Recruiting fund).

(8) Part B of Title II (Math and Science Partnerships).

(9) Part D of Title II (Enhancing Education Through Technology).

(~~6~~10) ~~Subpart 2 of~~ Part A of Title III ~~(State and Local Programs for School Technology Resources).~~(English Language Acquisition, Language Enhancement and Academic Achievement).

(~~7~~11) Part A of Title IV (Safe and Drug-Free Schools and Communities~~; other than section 4114~~).

(12) Part B of Title IV (21st Century Community Learning Centers).

(~~8~~13) ~~Title VI~~Part A of Title V (Innovative ~~Education Program Strategies~~Programs).

(14) Subpart I of Part B of Title VI (Small, Rural School Achievement Program).

(15) Subpart 2 of Part B of title VI (Rural and Low-Income School Program).

(c) **Complaint procedures at the local education agency (LEA) level.**

(1) All complaints concerning an LEA should be filed with the appropriate LEA or with the ~~Assistant State Superintendent of the School Improvement Division of the SEA~~General Counsel of the State Department of Education. Within thirty (30) days of receipt of a complaint, the applicant agency shall conduct an investigation of the allegation and resolve the complaint. Subsequent to the investigation and resolution, a written decision shall be filed with the ~~Assistant State Superintendent of the School Improvement Division of the SEA~~General Counsel of the State Department of Education and the complainant.

(2) A complaint may be filed by parents, teachers, or other concerned individuals or by an organization in relationship to the program. An LEA is required to review all complaints made concerning a covered program if:

(A) the complaint is in written form and alleges that federal program requirements have been violated;

(B) the complaint is signed;

(C) the complaint includes the facts on which the statement is based and the specific program requirement alleged to have been violated; and

(D) the complaint includes information supporting the allegation along with the allegation.

(d) **Complaint procedures at the SEA level.**

(1) Within thirty (30) days of receipt of a decision, the SEA shall review the investigation and decision and make the LEA aware if further steps are to be taken by the LEA or the SEA. A complainant who is dissatisfied with the decision of the LEA may file an appeal with the SEA. A request for an appeal must be submitted in writing to the ~~Assistant State Superintendent of the School Improvement Division of the SEA~~General Counsel of the State Department of Education within thirty (30) days of resolution of the complaint by the LEA.

(2) Upon receipt of an appeal, the SEA will request from the LEA a copy of the original complaint and evidence found during the investigation by the LEA. Upon receipt of evidence supplied by the complainant and the LEA, the SEA will either make a disposition from submitted documentation or conduct an independent, on-site investigation of the complaint if deemed warranted.

(3) Resolution of the complaint shall be made by the SEA within forty-five (45) days of receipt of an appeal. A request for an extension of this time limit may be submitted by either the LEA or complainant. An extension of this time limit will be made only if exceptional circumstances exist with respect to a particular complaint.

(4) Within ten (10) days of completion of the appeal review process by the SEA, a written decision will be provided to the person, persons, or organization making the complaint and to the LEA to which the complaint was filed.

(5) A complaint against an LEA made directly to the SEA without previously being filed with the appropriate LEA will be reviewed by the SEA to determine if an investigation is warranted by the SEA because of the seriousness of the complaint or if the complaint shall be returned to the complainant to be filed with the appropriate LEA. The forwarding of a complaint filed with the SEA requires the LEA to conduct an investigation and produce a decision within thirty (30) days of receipt of the complaint by the LEA.

(6) A direct complaint which the SEA determines must be investigated by the SEA will be resolved within forty-five (45) days of the receipt of the complaint by the SEA. A written decision will be provided to the person, persons, or organization making the complaint and to the LEA upon which the complaint was filed.

(7) The complainant has the right to request the Secretary of the United States Department of Education to review, at the Secretary's discretion, the final decision made by the SEA.

(8) Complaints against the SEA must be filed with the ~~Assistant State Superintendent of the School Improvement Division of the SEA~~General Counsel of the State Department of Education. Complaints must:

(A) be submitted in written form and specify the federal program requirements alleged to have been violated;

(B) be signed;

(C) include the facts on which the statement is based and the specific program requirement alleged to have been violated; and

(D) include information supporting the allegation along with the allegation.

(9) The SEA will investigate and resolve the complaint and issue a written decision to the LEA and to the complainant within forty-five (45) days of receipt of the complaint.

(10) The complainant has the right to request the Secretary of the United States Department of Education to review, at the Secretary's discretion, the final decision made by the SEA.

[OAR Docket #08-623; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 15. CURRICULUM AND INSTRUCTION

[OAR Docket #08-624]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 13. Special Education
210:15-13-5. Due Process Hearing Officer [NEW]
210:15-13-6. Subpoenas [NEW]
AUTHORITY:
70 O. S. § 3-104, State Board of Education
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Subchapter 13. Special Education
210:15-13-5. Due Process Hearing Officer [NEW]
210:15-13-6. Subpoenas [NEW]
Gubernatorial approval:
August 3, 2007
Register Publication:
25 Ok Reg 10

Docket Number:
07-1368
INCORPORATION BY REFERENCE:
N/A
ANALYSIS:
The proposed rule would ensure a due process complaint would be handled by a highly qualified Hearing and Appeal Officer. Hearing and Appeal Officers may issue subpoenas for the attendance of witnesses.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2008:

SUBCHAPTER 13. SPECIAL EDUCATION

210:15-13-5. Due Process Hearing Officer

(a) All Hearing and Appeal Officers assigned by the Oklahoma State Department of Education (OSDE) are expected to have the ability and experience necessary to weigh evidence and testimony presented and to make decisions in keeping with the evidence and testimony.

(b) All Hearing and Appeal Officers are expected to remain impartial in discharging their responsibilities at all times. If this is not possible, all Hearing and Appeal Officers have the responsibility to inform the OSDE immediately.

(c) All Hearing and Appeal Officers are expected to conduct hearings in a professional manner in accordance with established procedure, write decisions in a clear and concise manner based on law, and possess sufficient time to devote to these activities.

(d) No individual who is an official or employee of an LEA will be assigned as a Hearing or Appeal Officer. No attorney who currently represents parents or school districts, will be assigned as a Hearing Officer.

(e) All Hearing and Appeal Officers will possess at least a law degree or a minimum of a Master's degree in education, special education, psychology, or any related field. All Appeal Officers will have met the minimum training standards required of Hearing Officers and will have served in the capacity for at least two years in Oklahoma.

(f) OSDE will maintain an approved list of individuals who may serve as Hearing and Appeal Officers. The list will include a statement of the qualifications of each of those persons. All qualified and impartial Hearing and Appeal Officers will be assigned to a specific case on a rotational basis.

(g) The OSDE will pay for the cost of training for Hearing/Appeal Officers.

(h) The OSDE will pay for the cost of appointing the impartial Hearing/Appeal Officer with no cost to the LEA or parent.

(i) Compensation for Hearing and Appeal Officers will be set by the OSDE.

210:15-13-6. Subpoenas

(a) All Hearing and Appeal Officers assigned by the Oklahoma State Board of Education (OSBE) may, upon a party's request, issue subpoenas for the attendance of witnesses, the furnishing of information and the production of evidence in a due process hearing.

(b) All parties seeking a subpoena (e.g., parent, representative of a school district) may request an appropriate judicial proceeding to compel compliance by person who fails to obey a subpoena.

[OAR Docket #08-624; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 15. CURRICULUM AND INSTRUCTION

[OAR Docket #08-620]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 31. Middle School Mathematics Laboratories for Public Schools With Low Student Achievement in Mathematics Program
210:15-31-2. Middle school mathematics laboratories for public schools with low student achievement in mathematics program [AMENDED]
AUTHORITY:
70 O. S. § 3-104, State Board of Education
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Subchapter 31. Middle School Mathematics Laboratories for Public Schools With Low Student Achievement in Mathematics Program
210:15-31-2. Middle school mathematics laboratories for public schools with low student achievement in mathematics program [AMENDED]
Gubernatorial approval:
September 4, 2007
Register Publication:
25 Ok Reg 81
Docket Number:
07-1394
INCORPORATION BY REFERENCE:
N/A
ANALYSIS:
The rule change will eliminate the restriction to identify up to ten schools each year, allowing for more than ten schools with low student achievement

in mathematics to be selected. Also, the maximum number of teachers and administrators in each building trained to use the system is lowered to ten.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2008:

SUBCHAPTER 31. MIDDLE SCHOOL MATHEMATICS LABORATORIES FOR PUBLIC SCHOOLS WITH LOW STUDENT ACHIEVEMENT IN MATHEMATICS PROGRAM

210:15-31-2. Middle school mathematics laboratories for public schools with low student achievement in mathematics program

(a) The State Department of Education shall identify ~~ten~~ public schools with low student achievement in mathematics at the middle school level that meet the following criteria:

(1) Each school shall have at least fifty percent of its students performing below satisfactory on the eighth grade mathematics criterion referenced test of the Oklahoma School Testing Program in at least one of the two preceding years.

(2) There shall be a limit of one school per school district each year.

(3) There shall be representation from urban, suburban, and rural districts provided that such schools meet all other criteria.

(4) There shall be representation from each quadrant of the state provided that such schools meet all other criteria.

(b) Each selected school shall:

(1) provide a classroom facility for permanent occupation of the mathematics laboratory.

(2) implement the computer education teaching system as recommended by the vendor and the State Department of Education.

(3) develop a Mathematics Laboratory Team which may include up to ~~fifteen~~ten administrators, teachers, and technicians selected by school personnel to operate and utilize the computer education teaching system.

(4) attend all professional development provided by the vendor and the State Department of Education for appropriate implementation of the program.

(5) establish benchmark goals based upon preassessment data and state performance standards for the Oklahoma School Testing Program which will be submitted to the State Department of Education.

(c) Each participating school shall provide disaggregated data to the State Department of Education through quarterly reports.

[OAR Docket #08-620; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #08-619]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 26. Academic Achievement Award Program
210:20-26-3. Qualified employees [AMENDED]
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70 O. S. § 3-104, State Board of Education
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Subchapter 26. Academic Achievement Award Program
210:20-26-3. Qualified employees [AMENDED]
Gubernatorial approval:
September 4, 2007
Register Publication:
25 Ok Reg 82
Docket Number:
07-1395
INCORPORATION BY REFERENCE:
N/A
ANALYSIS:
Rules are being modified for the AAA program. The definition of "qualified employees" has changed based upon recent 2007 legislation in House Bill 1593. Minor clarifying language has been added to the rule.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2008:

SUBCHAPTER 26. ACADEMIC ACHIEVEMENT AWARD PROGRAM

210:20-26-3. Qualified employees

(a) Once the school in each group has been identified, the State Department of Education will determine the number of employees qualified by law to receive the award at each school.

Verification in writing of each employee's qualifications to receive the award shall be provided by the superintendent and/or principal. ~~Any certified employee who remains employed with the district for one half of the school year in which the award is given and employed at the site for one half of the school year from which the student test data was derived shall qualify for the award. The amount of funds available for the Academic Achievement Awards will be divided by the total number of qualified employees.~~

(b) Prior to January 31 of each year, the State Department of Education will forward the monetary award to each school with employees qualified to receive such award.

[OAR Docket #08-619; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #08-618]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 27. Support Personnel
210:20-27-1. Support personnel; reporting requirements [AMENDED]
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70 O. S. § 3-104, State Board of Education
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Subchapter 27. Support Personnel
210:20-27-1. Support personnel; reporting requirements [AMENDED]
Gubernatorial approval:
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25 Ok Reg 82
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07-1396
INCORPORATION BY REFERENCE:
N/A
ANALYSIS:
The rule amendments will change the due date for school districts to submit their Support Personnel Reports from October 15 to October 1.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2008:

SUBCHAPTER 27. SUPPORT PERSONNEL

210:20-27-1. Support personnel; reporting requirements

(a) **Reporting requirements.**

(1) No later than October ~~15~~1 of each year, all public school districts must file a "Preliminary (Pre-Print) Support Personnel Report" with the State Department of Education. The report shall list all support employees in their employ.

(2) No later than February 1 of each year, all public school districts must file a revised "Final Support Personnel Report" with the State Department of Education. The report shall contain any corrections, deletions, and additions that have occurred since the preliminary report was filed so that more accurate information is available for state aid calculations, legislative projections and other statistical requirements. State Aid funds shall be withheld from any school district that does not submit the "Final Support Personnel Report" by February 1. Only after the report has been received by the State Department of Education shall the withheld State Aid funds be released to the school district.

(3) No later than June 1 of each year, all public school districts must file a "Supplemental Support Personnel Report" with the State Department of Education showing the changes for support personnel previously listed as well as all information required on any new support employees not previously listed. This report shall contain any corrections or changes to be made to the "Final Support Personnel Report."

(b) **Information to be reported.** The following information is required on the Support Personnel Reports:

(1) Name
(2) Social Security Number
(3) Building site code
(4) Gender
(5) Race
(6) Position(s) and salary
(7) Months, hours per day, and estimated hours per year assigned
(8) Other information as deemed necessary
(9) Job code and function
(A) 01 Noncertified Business Manager, District Treasurer and Administrative Assistant
(B) 02 Secretarial and Clerical
(C) 03 Teacher's Assistant
(D) 04 Maintenance and Plant Operation
(E) 05 Food Service
(F) 06 Regular Bus Drivers

(G) 07 Substitute and Activity Drivers
(H) 08 Noncertified Health Care, i.e. LPN, etc.
(I) 09 Technicians, such as occupations requiring knowledge and manual skills which can be obtained by approximately two years post-high school education (programmers, draftsman, inspectors, etc.)
(J) 10 Skilled Crafts, such as mechanics, electrician, etc.
(K) 11 Other Personnel
(L) 12 Early Childhood/CDA
(M) 13 OPAT Teacher (Oklahoma Parents As Teachers)
(N) 14 Physical Therapist (state licensed, but not certified by the State Department of Education)
(O) 15 Occupational Therapist (state licensed, but not certified by the State Department of Education)
(P) 16 Security
(Q) 17 Library Support Staff

[OAR Docket #08-618; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 25. FINANCE

[OAR Docket #08-617]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Funding Criteria
210:25-3-4. Personnel [AMENDED]
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70 O. S. § 3-104, State Board of Education
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Subchapter 3. Funding Criteria
210:25-3-4. Personnel [AMENDED]
Gubernatorial approval:
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25 Ok Reg 83
Docket Number:
07-1397
INCORPORATION BY REFERENCE:
N/A
ANALYSIS:
The purpose of the proposed rule change is to establish a way to pre-populate the Accreditation Application Teacher Assignment section for the school districts. This will make for more accurate data when school districts submit their class assignments.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2008:

SUBCHAPTER 3. FUNDING CRITERIA

210:25-3-4. Personnel

(a) Teachers who have not yet received their degrees shall be considered as having a degree if all requirements have been completed except participation in graduation exercises.
(b) A teacher who has taught more than one-half of a day for 120 days or more shall be considered as having had one year of experience. A teacher who has taught the equivalent of 120 days within not more than two contractual years shall be considered as having had one year of experience. Experience shall be counted if the individual was legally employed and paid from funds under the supervision of a school board of education or any school accredited by the State Board of Education. Practice teaching or a practicum in a teacher-training institution shall not be considered as experience. Veterans Agricultural training instructors or any teacher employed full-time by an accredited college or university shall be considered as having one (1) year of teaching experience for each year of service after July 1, 1945, if such teaching experience is approved by the State Board of Education, provided such teacher held a bachelor's degree at the time these services were performed and was eligible to have been issued a teaching certificate.
(c) Any district identified as contracting with a teacher, or administrator without a valid certificate shall be penalized in state aid. The state aid penalty amount shall be the salary amount paid by the district for the number of days the teacher or administrator taught without a valid certificate in excess of allowable substitute days.
(d) All teachers must have an official transcript on file with the Professional Standards Section showing the degree completed.
(e) No later than October ~~15~~1 of each year, all public school districts must file an accurate Initial Certified Personnel Report with the State Department of Education. The report shall list all certified personnel in the district and shall list for each person the position code, compensation, degree, certification information, years of qualified experience, number of days employed and other information as deemed necessary. Beginning with the 2004-2005 school year the school district will report to the State Department of Education the salary and

benefit information disaggregated as required by law. For each employee not returning from the previous year, a reason for no return code shall be recorded.

(f) No later than February 1 of each year, all public school districts must file an accurate revised Final Certified Personnel Report with the State Department of Education. The report shall contain any corrections, departures, and additions that have occurred since the October ~~15~~1 report was filed so that more accurate information is available for state aid calculations, legislative projections and other statistical requirements. State Aid funds shall be withheld from any school district that does not submit the Final Certified Personnel Report by February 1. Only after the accurate report has been received by the State Department of Education shall the withheld State Aid funds be released to the school district.

(g) All public school districts must file an accurate End-of-Year Supplemental Certified Personnel Report showing the changes for certified personnel previously listed as well as all information required on any new certified employees not previously listed. This report shall contain any corrections or changes to be made to the February 1 Personnel Report. All employees that departed the school district prior to completion of the school year shall be given a "Reason-For-Leaving" code and have salary and days employed adjusted. School districts shall also file the Certified Substitute Teachers Report listing the number of days taught in the school year by all certified substitute teachers. These two reports shall be filed with the State Department of Education not later than June 15.

(h) If the district pays a teacher less than the minimum salary required by law, the difference shall be deducted from the next payment of state aid, or a claim shall be filed by the Director of Finance to recover any such overpayment to the school district.

(1) The School Personnel Records Section will notify the school superintendent of all potentially underpaid teachers after the Final Certified Personnel Reports are filed with the State Department of Education in February. The school superintendent shall notify the School Personnel Records Section of the district's intent to pay the teacher the underpaid amount or to dispute the amount. If disputed, the school superintendent is responsible for providing documentation to the School Personnel Records Section to show the teacher was not underpaid based on the state minimum salary schedule. The State Aid Section shall withhold from state aid the amount underpaid by October 1 in the school year following the year in which the underpayment occurred.

(2) The method for calculating teacher salaries to ensure state minimums are met shall be determined by the School Personnel Records Section.

(i) If a teacher asserts that the school district he or she is employed by and was employed by the previous year, (or if underpayment occurred prior to July 1, 2002, and the teacher filed an action to recover an underpayment in a court of competent jurisdiction before July 1, 2002), has reduced the salary and/or fringe benefit level without a proportionate reduction in hours or duties, the teacher may file a complaint with the State Department of Education's School Personnel Records Section. The complaint must be accompanied by documentation sufficient to justify the allegations in the complaint. The teacher shall also send a copy of the complaint and supporting documentation to the superintendent of the school district. The documentation shall include, but not be limited to, the teacher's salary and benefit amount for each year in question. The superintendent shall be given an opportunity to submit documentation to refute the teacher's claim within 20 calendar days of receipt of the complaint. The School Personnel Records Section shall review all the documentation presented and present the complaint to the State Board of Education for determination of whether the school district willfully reduced the teacher's salary and benefits in violation of the law. If the school district does not provide a response and supporting documentation to the complaint, the complaint shall be upheld. In the event the review of the documents reveals that the complaint is valid, the State Board of Education shall withhold the amount underpaid from the district's state aid as a penalty. Additionally, the same amount shall be withheld and that amount shall be sent to the teacher.

(j) Any superintendent, principal, or teacher shall not be considered as having received their minimum salary unless such salary is paid by school district warrants issued by the board of education or the school district.

(k) Personnel on the staff of the Oklahoma Department of Career and Technology Education shall be approved by the State Board of Education for increment purposes.

(l) Certified personnel teaching in Manpower Skill Centers and other Manpower Development Training Programs approved by the Oklahoma Department of Career and Technology Education shall be considered as teaching in a school approved by the State Board of Education for increment purposes as provided by Oklahoma School Law.

[OAR Docket #08-617; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS

[OAR Docket #08-625]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and Technology Schools
Part 11. Standard VI: Student Services
210:35-3-109. Vision Screening [NEW]
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07-804
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N/A
ANALYSIS:
The rule provides for the reporting of vision screening of kindergarten, first, and third grade students in public schools and comprehensive eye examinations to the State Department of Education.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2008:

SUBCHAPTER 3. STANDARDS FOR ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS

PART 11. STANDARD VI: STUDENT SERVICES

210:35-3-109. Vision Screening

All public school districts will report to the State Department of Education the number of Kindergarten, first and third grade students who submitted certification of a completed vision screening, and also the number of students who received a comprehensive eye examination from an optometrist or ophthalmologist. This report will be submitted annually by June 1 st.

[OAR Docket #08-625; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS

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SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and Technology Schools
Part 11. Standard VI: Student Services
210:35-3-110. Healthy and Fit School Advisory Committee [NEW]
Gubernatorial approval:
June 5, 2007
Register Publication:
24 Ok Reg 2734
Docket Number:
07-1312
INCORPORATION BY REFERENCE:
N/A
ANALYSIS:
The proposed rule provides for agency representatives to monitor schools for compliance with provisions of the Healthy and Fit Kids Act and to assign deficiencies on the Accreditation Report for noncompliance.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2008:

SUBCHAPTER 3. STANDARDS FOR ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS

PART 11. STANDARD VI: STUDENT SERVICES

210:35-3-110. Healthy and Fit School Advisory Committee

This section contains rules related to the Health and Fit Kids Act of 2004, as provided in 70 O.S. § 24-100(a).

(1) Representatives of the State Department of Education shall monitor each district annually to ensure that a Healthy and Fit School Advisory Committee has been established at each public school, and that such committee has met and made recommendations to the school principal regarding the following:

(A) Health education

(B) Physical education and physical activity

(C) Nutrition and health services

(2) The Healthy and Fit School Advisory Committee, composed of teachers, administrators, parents of students, health care professionals, and business community representatives, may operate as a separate entity or be combined with the school's Safe School Committee, established pursuant to 70 O.S. § 24-100.5.

(3) It should be determined that each school principal has given consideration to recommendations of the Healthy and Fit School Advisory Committee.

(4) The monitoring official is authorized to report a school as deficient on the accreditation report for noncompliance with the provisions of 70 O.S. § 24-100.5.

[OAR Docket #08-626; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS

[OAR Docket #08-616]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and Technology Schools
Part 19. Standard X: School Facilities
210:35-3-186. Site and buildings: size and space accessibility; maintenance; health and safety [AMENDED]
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Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and Technology Schools
Part 19. Standard X: School Facilities
210:35-3-186. Site and buildings: size and space accessibility; maintenance; health and safety [AMENDED]
Gubernatorial approval:
September 4, 2007
Register Publication:
25 Ok Reg 85
Docket Number:
07-1398
INCORPORATION BY REFERENCE:
N/A
ANALYSIS:
The proposed rule amendments require all students and personnel to participate in lock down drills at least once each year.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2008.

SUBCHAPTER 3. STANDARDS FOR ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS

PART 19. STANDARD X: SCHOOL FACILITIES

210:35-3-186. Site and buildings: size and space; accessibility; maintenance; health and safety

(a) The site and building(s) shall be properly sized and equipped for the number of occupants and grades served. [Reference: 11:22-117 School Speed Limit Signs in Municipalities; 25:91.2 Display of Oklahoma Flag on School Premises Compulsory; 25:153 School to Display Flag; 47:11-801 Speed Limit for School Buses--School Zones Outside Municipalities--Signs; 70:5-131 Educational Courses--Buildings and Equipment; 70:5-131.1 Sewage Disposal System; 74:324.8 State/Municipality Adoption of Building Codes--BOCA, SBCCI or ICBO; 74:324.11 Permits for Construction or Alterations of Building]

(b) The site and building(s) shall be readily accessible, allowing access for handicapped persons to required programs. [Reference: 70:13-103 Authorized Provisions for Education of Exceptional Children]

(c) Adequate space shall be provided for classrooms, specialized instructional areas, support facilities and other areas as needed, these areas being grouped and arranged in such manner to provide optimum instructional function and class control. [Reference: 70:5-131 Educational Courses--Buildings and Equipment; 70:18-152 Legislative Intent--School Facilities; Other citings--State Department of Education SPACE GUIDELINES FOR PLANNING EDUCATIONAL FACILITIES; Vocational Rehabilitation Act of 1973, Section 504; American National Standards Institute (ANSI) A117.1.]

(d) School facilities shall be able to accommodate changes in curriculum and/or equipment within a program. [Reference: 70:18-152 Legislative Intent-School Facilities; 70:18-153 Capital Improvement Plan]

(e) Programs for preventive and corrective maintenance shall be developed and implemented to ensure that the site and building(s) will be clean, in good repair, and maintained with consideration for function and aesthetic values. [Reference: 70:18-152 Legislative Intent--School Facilities]

(f) Equipment, furnishings, and supplies in proper quantity and quality shall be maintained; and a system shall be developed and implemented for inventory, issue, usage, storage, repair, and replacement.

(g) A long-range plan for replacing and/or updating the site, building(s), and equipment shall be developed. [Reference: 70:18-153 Capital Improvement Plan]

(h) The site and building(s) shall ensure that the health and safety of those served are properly safeguarded. Where required, the facility shall have utility systems, plumbing systems, electrical systems, mechanical systems, emergency systems, building interiors and building envelope designed, built, and maintained to recognized standards, codes and/or other legal requirements. [Reference: 59:1002 Authorizes State Department of Health to Adopt Codes--BOCA Plumbing Code; 59:1681 Authorizes State Board of Health to Adopt Codes--Selections from NFPA; 59:1850.3 Authorizes State Board of Health to Adopt Codes--BOCA Plumbing Code; 61:152 through 157 Oklahoma Lighting Energy Conservation Act; 70:3-104 State Board of Education--Powers and Duties; 70:5-131.1 Sewage Disposal System; 74:324.7 Fire Marshal; 74:324.8 State/Municipality Adoption of Building Codes--BOCA, SBCCI or ICBO; 74:324.11 Permits for Construction of Alteration of Buildings] Other citings--State Department of Education SPACE GUIDELINES FOR PLANNING EDUCATIONAL FACILITIES]

(i) The site shall be as free as possible from hazards, provide a safe area for (un)loading of vehicles, with adequate lighting, signage and drainage. [Reference: 11:22-117 School Speed Limit Signs in Municipalities; 47:11-801 Speed Limit for School Buses--School Zones Outside Municipalities--Signs; 74:324.8 State/Municipality Adoption of Building Codes--BOCA, SBCCI or ICBO]

(j) Appropriate programs pertaining to hazardous materials, hazardous waste, asbestos, underground storage tanks, lead contamination, and other applicable life, health, and/or safety matters shall be developed and implemented. [Reference: 40:403 and 404 Oklahoma Occupational Health and Safety Standards Act; Other citings--29 CFR 1910 Occupational Safety and Health Standards, Oklahoma Corporation Commission's General Rules and Regulations Governing Underground Storage Tanks; 40 CFR 260-272 Asbestos Hazard Emergency Response Act 9 (AHERA), Lead Contamination and Control Act of 1988(LCCA), Resources Conservation and Recovery Act of 1976 (Hazardous and Solid Waste Amendments of 1984)]

(k) Proper precautions shall be taken to prevent injuries. All equipment and facility safety features shall be in place and properly maintained. [Reference: 70:24-117 Safety Goggles--School Board to Provide for Certain Personnel; 70:24-118 Respirators--School Board to Provide for Certain Teachers and Students; 70:324.7 Fire Marshal; 74:324.11 Smoke Detectors]

(l) The school's administration shall ensure that qualified personnel conduct a safety/emergency/disaster procedure review at least annually and safety inspections of site, building(s), and equipment regularly. [Reference: 63:176 Fire Drills; 74:324.7 Fire Marshal]

(m) All public school districts shall conduct a minimum of two tornado drills per school year, in which all students and school employees participate. Such drills shall conform to the written plans and procedures adopted by the district for protecting against natural and man-made disasters and emergencies as required by Title 63 O.S. § 681. Each school district shall document in writing and by school site, compliance with this requirement and such records shall be available to the Regional Accreditation Officer during the accreditation process.

(n) All public schools shall have a minimum of one lockdown drill each school year. All students and employees are required to participate in the drills, with the extent of student involvement to be determined by the district. Each school district board of education and administration shall adopt policies and procedures for lockdown drills. Each public school district shall document lockdown drills in writing by public school site. Compliance with this requirement and such records shall be available to the Regional Accreditation Officer during the accreditation process.

[OAR Docket #08-616; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS

[OAR Docket #08-627]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 5. Additional Standards for Elementary Schools
Part 7. Standard IV: Curriculum, Instruction, Assessment and Climate

210:35-5-31. Program of Studies [NEW]
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Subchapter 5. Additional Standards for Elementary Schools
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210:35-5-31. Program of Studies [NEW]
Gubernatorial approval:
August 3, 2007
Register Publication:
25 Ok Reg 11
Docket Number:
07-1369
INCORPORATION BY REFERENCE:
N/A
ANALYSIS:
The proposed rule amendments will require that school districts provide to all students physical education programs, which may include athletics, as a condition of accreditation. Proposed rule amendments will require that public elementary schools provide instruction in physical education for full-day kindergarten through Grade 5 students for an average of sixty (60) minutes each week. Time spent in recess cannot be counted toward the total required for physical education.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2008:

SUBCHAPTER 5. ADDITIONAL STANDARDS FOR ELEMENTARY SCHOOLS

PART 7. STANDARD IV: CURRICULUM, INSTRUCTION, ASSESSMENT AND CLIMATE

210:35-5-31. Program of Studies

(a) School districts are required to provide physical education programs to all students. These programs may include athletics.

(b) Public elementary schools must provide instruction in physical education for all students in full-day kindergarten through Grade 5 for an average of 60 minutes per week.

(c) Physical education instruction must be aligned with the Priority Academic Student Skills (PASS).

(d) Time spent in recess cannot count toward the average of sixty minutes per week required for physical education.

[OAR Docket #08-627; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS

[OAR Docket #08-628]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 15. Expanded Opportunities in Summer Programs
210:35-15-2. Summer school programs [AMENDED]
AUTHORITY:
70 O. S. § 3-104, State Board of Education
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Subchapter 15. Expanded Opportunities in Summer Programs
210:35-15-2. Summer school programs [AMENDED]
Gubernatorial approval:
July 5, 2007
Register Publication:
24 Ok Reg 2877
Docket Number:
07-1349
INCORPORATION BY REFERENCE:
N/A
ANALYSIS:
The purpose of the rule change is to allow schools flexibility in the length of time summer school may be in session. The proposed rule change will delete the requirement that summer school cannot be in session more than 5 days per week. This would eliminate need for filing a deregulation.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2008:

SUBCHAPTER 15. EXPANDED OPPORTUNITIES IN SUMMER PROGRAMS

210:35-15-2. Summer school programs

Rules and regulations for summer school programs are:

(1) **Application.** Schools, including Technology Centers, desiring accreditation by the State Board of Education shall make application on forms furnished for this purpose (summer high school). The application shall be completely and properly completed and filed with the Accreditation Section, State Department of Education, on or before the end of the first week of the summer session.

(2) **Time in session.**

~~(A) Summer school shall not be in session more than 5 days per week.~~

~~(B)~~ A high school may define a unit of credit as meeting a minimum of 60 hours for 1/2 unit of credit or a minimum of 120 hours for 1 unit of credit.

(3) **Teacher load.**

(A) Teachers teaching in summer schools shall not teach more than two units during the summer term of school, unless special permission is granted by the State Department of Education.

(B) Teachers shall not teach more than two subjects during any one period.

(4) **Teacher certification.** All teachers shall have valid appropriate teacher certificates.

(5) **Summer school Career Orientation classes.** Summer school Career Orientation classes at the technology center may be accredited for grades 9-10.

[OAR Docket #08-628; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 40. GRANTS AND PROGRAMS-IN-AID

[OAR Docket #08-629]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 9. McKinney-Vento Homeless Education Complaint Guidelines [NEW]
210:40-9-1. Purpose [NEW]
210:40-9-2. School District Level [NEW]
210:40-9-3. State level [NEW]
AUTHORITY:
70 O. S. § 3-104, State Board of Education
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Subchapter 9. McKinney-Vento Homeless Education Complaint Guidelines [NEW]
210:40-9-1. Purpose [NEW]
210:40-9-2. School District Level [NEW]
210:40-9-3. State level [NEW]
Gubernatorial approval:
August 3, 2007
Register Publication:
25 Ok Reg 11
Docket Number:
07-1370
INCORPORATION BY REFERENCE:
N/A
ANALYSIS:
The proposed rules will establish a complaint resolution process to utilize when a dispute arises regarding the education of a homeless child or youth.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2008:

SUBCHAPTER 9. MCKINNEY-VENTO HOMELESS EDUCATION COMPLAINT GUIDELINES

210:40-9-1. Purpose

The following rule is a complaint resolution process recommended by the Oklahoma Department of Education (OSDE) when a dispute arises regarding the education of a homeless child or youth.

210:40-9-2. School District Level

Every effort must be made to resolve the complaint or dispute at the school district level before it is brought to the OSDE. It is the responsibility of the school district (the district)

to inform the complainant of the district's Complaint Resolution Procedure when a question concerning the education of a homeless child or youth arises.

(1) Notify the district's homeless coordinator. The homeless coordinator serves as a liaison between the homeless child and the school the child attends. Someone in the school or in the superintendent's office will be able to identify the homeless coordinator.

(A) Request a copy of or access to the district board of education policies addressing the education of homeless children and youths and review them. Make an appointment with the homeless coordinator to discuss the complaint.

(B) If the dispute is not resolved after the initial discussion with the district's homeless coordinator, the complainant may file a complaint in writing to the district's homeless coordinator for further review.

(C) In the complaint include a request that a written proposed resolution of the dispute of a plan of action be provided within five (5) days of the date the complaint was received by the district's homeless coordinator. A review of the proposal or plan of action with the homeless coordinator should follow. The parties may mutually agree on an extension; however every effort should be made to resolve the complaint in the shortest possible time.

(2) If the dispute is not resolved at the district homeless coordinator level, the complaint may be forwarded to the superintendent of the district for review followed by a meeting with the superintendent to discuss the dispute. The complainant should requests from the superintendent a written resolution within five (5) days of the date of the discussion. The parties may mutually agree on an extension; however every effort should be made to resolve the complaint in the shortest possible time.

(3) If the dispute is not resolved at the district superintendent level, the complainant may take the matter before the school district board of education for resolution.

210:40-9-3. State level

If the dispute is not resolved in a satisfactory manner at the school district level, the complaint may be brought to the OSDE. Complaints made under this process must be made in writing and signed by the complainant. The following steps are to be taken:

(1) Address the complaint to the State Homeless Coordinator, Oklahoma State Department of Education, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105. Include in the complaint:

(A) A detailed description of the dispute

(B) The name(s) and age(s) of the children involved

(C) The name(s) of involved school district personnel and the district(s) they represent

(D) A description of attempts that were made to resolve the issue at the school district level

(2) The Team Leader of the Office of Grants Planning will inform the involved school district(s) of the complaint. The team leader or team leader's designee will gather needed information including documentation and statements of the parties and may conduct an independent investigation through an on-site visit if necessary.

(3) Within thirty (30) days after receiving a complaint and investigating the complaint, the team leader will make a determination regarding the allegations on the complaint and will inform the parties, in writing, of the decision. The parties may mutually agree on an extension; however every effort should be made to resolve the complaint in the shortest possible time.

(4) If a complainant disagrees with the decision, the complainant may, within ten (10) working days, appeal the decision to the Deputy State Superintendent of Public Instruction. This appeal must be in writing and state the reasons why the complainant disagrees with the decision.

(5) Within thirty (30) days after receiving the appeal, the Deputy State Superintendent of Public Instruction will render a final decision and notify the complainant and all other interested parties in writing. Although the standard procedure allows thirty (30) days for a response, every effort will be made to resolve the complaint in the shortest possible time

(6) While the dispute is ongoing, the child(ren) in question must be enrolled in and attending school. If the dispute revolves around which school is the school of best interest for the child, the child shall remain in the school they currently attend until the dispute is resolved, unless arrangements already implemented allow the child to attend the school of origin.

[OAR Docket #08-629; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 40. GRANTS AND PROGRAMS-IN-AID

[OAR Docket #08-615]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 89. Robotics Grant Program [NEW]
210:40-89-1. Purpose [NEW]
210:40-89-2. Robotics Programs for Public Schools [NEW]
AUTHORITY:
70 O. S. § 3-104, State Board of Education
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Subchapter 89. Robotics Grant Program [NEW]
210:40-89-1. Purpose [NEW]
210:40-89-2. Robotics Programs for Public Schools [NEW]
Gubernatorial approval:
September 4, 2007
Register Publication:
25 Ok Reg 86
Docket Number:
07-1399
INCORPORATION BY REFERENCE:
N/A
ANALYSIS:
The Robotics Grant Program will provide grant funding for high schools for participation in robotics competitions. The rules for the Robotics Grant Program outline the requirements for implementation of the program. Schools will be selected for participation and receive funding based on a statewide competitive application process. Funds will be utilized by the schools for registration fees and related expenses associated with participation in Oklahoma regional and national robotics competitions. Upon completion of the project, schools will provide use of funding and project outcome reports to the State Department of Education.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2008:

SUBCHAPTER 89. ROBOTICS GRANT PROGRAM

210:40-89-1. Purpose

This rule prescribes procedures to be used in selecting schools to participate in the grant for Robotics programs for public schools at the high school level. Pursuant to the provisions of the state statute, grants to school districts are for the purpose of providing funds to establish remote-controlled robot projects.

210:40-89-2. Robotics Programs for Public Schools

(a) The State Department of Education shall select public schools based on the following criteria:

(1) Schools shall be selected based on a competitive grant process.

(2) There shall be representation from urban, suburban, and rural districts provided that such schools complete the grant application.

(3) There shall be representation from each quadrant of the state provided that such schools complete the grant application.

(b) Each selected school shall:

(1) Establish teams of students who will design and build a remote-controlled robot.

(2) Utilize funds for registration fees and related expenses for remote-controlled robot competitions.

(3) Utilize teachers and volunteers to provide assistance to the student teams.

(4) Participate in Oklahoma regional and national robotics competitions.

(5) Provide an end-of-project report on project implementation and utilization of funds to the State Department of Education.

[OAR Docket #08-615; filed 4-9-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 40. GRANTS AND PROGRAMS-IN-AID

[OAR Docket #08-614]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 91. Comprehensive Statewide School District Character Education Grants [NEW]
210:40-91-1. Purpose [NEW]
210:40-91-2. Procedures for solicitation, determination of eligibility, and acceptance of applications for Districtwide Comprehensive Character Education Programs [NEW]
210:40-91-3. Procedures for evaluation and recommendation of eligible grant applications [NEW]
210:40-91-4. Procedures for awarding grants [NEW]
AUTHORITY:
70 O. S. § 3-104, State Board of Education
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Subchapter 91. Comprehensive Statewide School District Character Education Grants [NEW]
210:40-91-1. Purpose [NEW]

210:40-91-2. Procedures for solicitation, determination of eligibility, and acceptance of applications for Districtwide Comprehensive Character Education Programs [NEW]
210:40-91-3. Procedures for evaluation and recommendation of eligible grant applications [NEW]
210:40-91-4. Procedures for awarding grants [NEW]

Gubernatorial approval:
September 4, 2007
Register Publication:
25 Ok Reg 87
Docket Number:
07-1400
INCORPORATION BY REFERENCE:
N/A
ANALYSIS:
The new rule will establish comprehensive, districtwide pilot character education programs on a statewide competitive basis and outline the requirements for establishing the criteria and the selection process. The new rules will establish the criteria, an application, and a selection process for identifying the pilot programs to receive funding.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2008:

SUBCHAPTER 91. COMPREHENSIVE STATEWIDE SCHOOL DISTRICT CHARACTER EDUCATION GRANTS

210:40-91-1. Purpose

This rule prescribes procedures for a competitive grant process to be used in selecting classroom(s), programs, sites within school districts, or entire school districts statewide to implement model comprehensive character programs.

210:40-91-2. Procedures for solicitation, determination of eligibility, and acceptance of applications for Districtwide Comprehensive Character Education Programs

(a) At such time that state funds are appropriated for the Character Education Grant program grants to be awarded by the State Board of Education and administered by the State Department of Education, a notification letter will be sent to each district superintendent announcing the availability of the grant application. Such notice will also be posted on the State Department of Education website at <www.sde.state.ok.us>.

(b) The notification will clearly state the name and telephone number of the contact person for the Character Education Grant at the State Department of Education who administers the program.

(c) Only one application per district per grant will be accepted. The signature of the district superintendent must appear on the application.

(d) School districts, sites within a district, programs and classrooms may be eligible as a pilot for the grant with the intent of replication throughout the district.

210:40-91-3. Procedures for evaluation and recommendation of eligible grant applications

(a) The State Department of Education shall identify and make grant awards to pilot sites based on the following criteria and the availability of funding:

(1) Programs, sites or classrooms within school districts, or entire school districts shall be selected as a comprehensive character education pilot based on a competitive grant process.

(2) The grant application shall be designed by the Oklahoma State Department of Education staff. Local Boards of Education shall submit the application to the SDE Grant Review and Selection Committee, Office of Innovation, Support, and Alternative Education.

(3) A Grant Review and Selection Committee will be chosen by the State Superintendent. The committee shall identify the grantees who meet the criteria for selection to establish innovative pilot character education programs and make a recommendation to the State Superintendent of Public Instruction and the State Board of Education for approval and funding. The number of grants to be awarded will be based on the total appropriated funds.

(b) Each school district applying for the Character Education grant shall:

(1) Describe the process that will enable the classroom, program, site within the district, or the entire district to become a "pilot."

(2) Describe the strategies or methods that will promote and maintain a character education model.

(3) Describe the materials, curricula and models to be used in the program.

(4) Describe the leadership roles and expectations of program participants in the school district, program, classroom, or site.

(5) Provide examples of communication and public relations efforts that will highlight the elements of character being promoted.

(6) Describe the methodology as well as the commitment to submitting the data necessary to support being named to the Character Education Honor Roll.

(7) Describe an objective procedure for documenting how the Character Education Grant program benefits the children served. Data and documentation will be collected, compiled and submitted to the State Department of Education.

(c) Districts, programs, sites or classrooms within a district that successfully implement a comprehensive character education program will be eligible for recognition by the Oklahoma State Board of Education for the "Character Education Honor Roll."

210:40-91-4. Procedures for awarding grants

After committee review and scoring of the eligible applications, the State Superintendent will provide a list of recommended eligible applicants to the State Board of Education for approval and possible funding.

[OAR Docket #08-614; filed 4-9-08]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 410. WIC

[OAR Docket #08-562]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Vendor Management
Part 1. General Provisions
310:410-3-2 [AMENDED]
310:410-3-3 [AMENDED]
Part 3. WIC Vendor Application and Authorization Process
310:410-3-10 [AMENDED]
310:410-3-12 [AMENDED]
310:410-3-13 [AMENDED]
310:410-3-14 [AMENDED]
Part 7. WIC Vendor Authorization and Responsibilities
310:410-3-33 [AMENDED]
310:410-3-34 [AMENDED]
Part 9. WIC Vendor Compliance and Sanctions
310:410-3-52 [AMENDED]
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ANALYSIS:
The proposal continues to clarify and simplify the existing rules as they pertain to retail vendors in the WIC program. The Proposal also updates the existing rules to comply with the new Federal Rules and Regulations pertaining to Cost Containment.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF MAY 11, 2008:

SUBCHAPTER 3. VENDOR MANAGEMENT

PART 1. GENERAL PROVISIONS

310:410-3-2. Definitions

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

"Above 50% WIC Vendor" means a WIC retail vendor who expects to derive more than 50% of their annual food sales revenue from the redemption of WIC food instruments from all of the WIC Programs for which they are authorized.

"Administrative warning" means a written notice which describes the nature of a violation to the WIC Program and a request for correction of the violation.

"Applicant" means the individual, partnership, limited partnership, unincorporated association, or corporation applying to be a WIC retail vendor, includes both Above 50% and Regular WIC Vendors.

"Application" means the application forms and other required materials submitted by a business entity to notify the department that the business entity desires to become a WIC retail vendor.

"Authorization" means the approval of an applicant who has met the WIC vendor criteria and has accepted a WIC vendor agreement as a WIC retail vendor.

"Business entity" means the retail business which an applicant or authorized WIC vendor operates at a particular vendor site.

"Commissioner" means the Commissioner of the Oklahoma State Department of Health or his designee.

"Corporate officer" means the identity of the officer of a corporation as set forth in its articles of incorporation as filed with the secretary of state wherein such entity is incorporated.

"Department" means the Oklahoma State Department of Health.

"Department estimated cost" means self reported vendor prices on the vendor retail price survey, which are averaged and weighed by store type and region from the vendor price survey.

"Department representative" or **"Representative of the Department"** means an employee or authorized agent of the department.

"Food Instrument" or "FI" means a voucher, check, electronic benefits transfer card (EBT), coupon or other document which is used to obtain supplemental WIC approved foods.

"Grocery store" means a fixed and permanent retail store whose primary business is the sale of food.

"Invalid vendor" means a food instrument deposited or mailed by a vendor which has been encoded and rejected by the department's contract bank for the following reasons: the food instrument has not been stamped with the vendor number, the vendor number is unauthorized, unreadable, not in the space indicated, or a counterfeit vendor stamp is used. Typed or handwritten numbers shall not be accepted.

"Local agency" means a public or private, non-profit health or human services agency which provides health services, either directly or through an agreement, in accordance with the USDA WIC Regulations, or this Subchapter.

"MAR" means the Maximum Allowable Reimbursement amount for WIC approved foods.

"OAPA" means the Oklahoma Administrative Procedure Act.

"Oklahoma WIC retail food delivery system" means the system in

which participants obtain WIC approved foods by submitting a food instrument to a WIC retail vendor.

"Participant" means authorized pregnant women, breast-feeding women, postpartum women, infants or children who are receiving supplemental WIC approved foods or food instruments under the WIC Program.

"Participant requested delivery" means a participant requested delivery of WIC approved foods from a vendor to an address specified by the WIC participant or proxy.

"Participant/vendor ratio" means the total number of WIC participants in a given region divided by the total number of WIC retail vendors in the same region.

"Peer Group" means the classification of WIC retail vendors with regards to competitive pricing.

"Pharmacy" means any store, or shop, department, or other place at a fixed and permanent location, where drugs, medicines, or liquid foods prescribed by a physician licensed to practice medicine in all its branches, for an individual are dispensed, or sold or offered for sale at retail value.

"Proxy" means a person who is authorized by the local agency and the WIC participant to accept and/or redeem food instruments on a participant's behalf.

"Regular WIC Vendor" means any WIC retail vendor who has not been determined to be an Above 50% WIC Vendor.

"Retail vendor price survey" means the current prices, reported to the department, by a vendor or a department representative as charges for WIC Approved Foods.

"Store type" means the classification of WIC retail vendors by their gross retail sales per year. Up to 1.5 million dollars in sales is a type 1 vendor site; 1.5 million to 5 million dollars in sales is a type 2 vendor site; over 5 million dollars in sales is a type 3 vendor site. A commissary is a type 4 vendor site and a pharmacy is a type 5 vendor site. An Above 50% vendor is a type 6 vendor site.

"USDA" means the United States Department of Agriculture.

"USDA WIC regulations" mean the regulations of the United States Department of Agriculture, Food and Nutrition Service, Special Supplemental Food Program for Women, Infants, and Children. 7 CFR 246 (1990)

"Vendor" or "WIC retail vendor" means the individual, partnership, limited partnership, unincorporated association, or corporation authorized by the department to accept food instruments and to provide supplemental food to WIC participants or proxies of WIC participants, includes both Above 50% and Regular Vendors.

"Vendor number" means the number assigned to a vendor by the department for validating food instruments.

"Vendor site" means a fixed and permanent location, operating as a business entity, listed in the WIC vendor application, which has been authorized by the department for purposes of delivery of WIC approved foods to WIC participants or the proxy of a WIC participant.

"Vendor stamp" means the stamp provided to a vendor by the department for validating food instruments.

"WIC food list" means the published list of State of Oklahoma authorized WIC approved foods.

"WIC approved foods" mean those competitively priced foods which have been placed on the WIC food list, which have been determined by the department to be nutritionally qualified for the WIC Program in the state of Oklahoma.

"WIC participant identification folder" means the folder issued by a local agency to a participant for purposes of the WIC Program.

"WIC service chief" means the person responsible for the implementation and administration of the WIC Program.

"WIC vendor agreement" means an agreement signed by the WIC retail vendor and the department for the provision of WIC approved foods to participants.

"Women, Infants and Children Nutrition Program" or "WIC" means the federal special supplemental food program for women, infants and children authorized by Section 17 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1786).

310:410-3-3. Application of vendor management

The procedures in this Subchapter apply to all Applicants for participation as vendors in the WIC Program and all vendors ~~contracting~~under agreement with the department. Any authorization issued prior to the effective date of the Act or this Subchapter, shall remain valid and subject to the Act and this Subchapter.

PART 3. WIC VENDOR APPLICATION AND AUTHORIZATION PROCESS

310:410-3-10. Participant distribution and number of vendors

(a) Upon receipt of the application, the department shall utilize participant/vendor ratios and shall consider participant needs within geographical locations to determine if the applicant meets the county participant/vendor ratio to be eligible for selection.

(b) The participant/vendor ratio shall be calculated for the counties within the state of Oklahoma to determine the need for WIC retail vendors within such counties.

(1) The counties will be divided into two classifications:

(A) Urban Counties - Counties that have towns/cities located within their boundaries with a population of or 20,000 greater. The following counties are considered urban counties:

(i) Canadian
(ii) Carter
(iii) ~~Comanche~~Cleveland
(iv) ~~Cleveland~~Comanche
(v) Garfield
(vi) Jackson
(vii) Kay
(viii) Muskogee
(ix) Oklahoma
(x) Payne
(xi) Pottawatomie
(xii) Stephens
(xiii) Tulsa
(xiv) Washington

(B) Rural Counties - Counties that have towns/cities located within their boundaries with a population of less than 20,000 or consist of sparsely populated areas. All counties not listed in (A) of this paragraph as urban counties are considered rural counties.

(2) Participant/vendor ratios for the counties within Oklahoma shall be:

(A) Urban Counties - Greater than 200:1
(B) Rural Counties - Greater than 150:1

(3) If an applicant applies for WIC authorization in a county which exceeds the maximum participant/vendor ratio, the application shall be denied. An exception shall be granted when the applicant's charges to the department or shelf price, whichever is lower, for WIC approved foods are at least five percent (5%) below the department's regional estimated cost, and the applicant agrees to maintain these charges to the department at such level during the period of authorization or until the distance is such participant's access is restricted or the county becomes unsaturated.

310:410-3-12. Authorization criteria and procedures

(a) Only WIC retail vendors authorized by the department shall be eligible to accept food instruments or otherwise provide supplemental foods to WIC participants. Any applicant seeking authorization to become a WIC retail vendor has an obligation to meet the following criteria before authorization. In addition, any approved vendor has a continuing obligation to meet the below listed criteria during the period of authorization:

(1) The vendor site shall be located within the boundary lines of the state of Oklahoma.

(2) The vendor site shall have a fixed and permanent location. This site shall be the address indicated on the WIC vendor application and shall be the location where a WIC participant or proxy shall select WIC foods during business hours.

(A) This site shall not be at an address or within any building where food instruments are distributed to WIC participants without written agreement from the State, i.e., extenuating circumstances, outreach, participant access, and/or rural areas. Provided, however, the Department retains the right to place a service location within the same building where food instruments are redeemed.

(B) The price charged to the WIC Program for WIC foods provided through participant requested delivery shall not exceed those prices charged to cash paying customers nor the prices posted at the vendor site. The vendor shall not charge for delivery of WIC foods.

(3) Each vendor site listed in the application shall have seventy percent (70%) or more gross receipts from the sale of products other than beer, hot foods and motor fuel.

(4) Authorization to participate in the USDA Food Stamp Program or any other federal food program is not a prerequisite for authorization as a WIC retail vendor. If, however, an applicant or vendor has been authorized to participate in the USDA Food Stamp Program or other federal food program, he shall not have been denied, suspended, disqualified, terminated, or assessed a civil money penalty during the two (2) years preceding application for authorization as a WIC retail vendor.

(5) Neither the applicant, vendor, nor any officers or officials shall have been involved in bribery as prohibited under Oklahoma Purchasing Act.

(6) Neither the applicant, vendor, its officers, directors, individual partners, nor their spouses or minor children who own more than seven and one-half percent (7 1/2%) ownership or beneficial interest in the business entity seeking authorization to participate in the WIC Program shall be employed by the state or county health departments directly or indirectly involved in the delivery or administration of WIC services.

(7) Neither the applicant, nor the vendor shall have been convicted of a misdemeanor involving fraud, misuse or theft of state or federal funds or of any felony. A certified copy of conviction may be offered and admitted into evidence as proof of such conviction.

(8) Neither the applicant, vendor, nor any owner of thirty percent (30%) or more ownership shall have been terminated from the WIC Program in the previous two (2) years.

(9) The applicant or vendor shall adhere to the provisions of the USDA WIC Regulations and this part.

(b) Applicants shall be authorized as WIC retail vendors based upon the following:

(1) An application and all supporting documents shall be properly completed and verified by the department. No application shall be deemed complete unless it includes all necessary supporting documents required by this part.

(2) The applicant's proposed vendor site may be initially inspected by the department.

(A) The department may conduct an initial inspection of the proposed vendor site after receipt of a completed application. Such inspection shall determine whether the applicant has the minimum

quantities, sizes, and types of WIC foods and shall verify any business or financial information submitted by the applicant.

(B) If the inspection discloses that the applicant's proposed vendor site does not have the minimum quantities, sizes, or types of WIC foods necessary, or that business or financial information supplied by the applicant is erroneous, inaccurate, or insufficient, the department shall advise the applicant of the deficiencies and conduct another inspection of the vendor site.

(C) If the second inspection by the department discloses that the applicant's proposed vendor site does not meet the minimum quantities, sizes, and types of WIC foods or if business or financial information supplied by the applicant remains erroneous, inaccurate or insufficient, the application shall be denied.

(3) The minimum quantities, sizes, and types of WIC foods necessary at a vendor site are those specified in the WIC Vendor ~~Handbook~~Agreement. A copy of this list shall be provided to each applicant and approved vendor.

(4) The department shall complete a retail vendor price survey of WIC foods during the initial inspection by collecting the lowest posted shelf prices for WIC foods. If the regular vendor applicant's prices are ~~five~~ten percent (~~5~~10%) above the average prices in the same ~~region~~peer group for WIC foods, the application shall be denied~~, unless the vendor is a pharmacy which only redeems food instruments for special infant feeding formulas~~. If the above 50% WIC vendor applicant's prices are above the average prices for their required peer group prices, the application shall be denied.

(5) The applicant shall be notified by the department within sixty (60) calendar days, whether or not the inspection or the proposed vendor site, the business, the financial, or other information provided by the applicant meet the criteria set forth in this part. If the applicant meets such criteria, he shall be notified of approval to attend the initial retail vendor training course.

310:410-3-13. WIC food list and quantities

Foods which qualify for delivery to WIC participants shall be determined by the department and placed upon a list which shall be made public. ~~This list shall be printed and distributed at least once each year with the effective date of implementation printed on the face of the list.~~ Changes made to the WIC food list by the department, including addition and deletion of eligible foods, shall be distributed to all local agencies, eligible participants and WIC vendors prior to implementation. If a vendor intends to utilize a WIC food list which differs in form from the WIC food list distributed by the department, such use shall require prior approval of the department. To obtain such approval, the vendor shall submit a request for such use in writing to the department and shall include a copy of the food list it intends to use. The department shall review the food list submitted and inform the vendor whether it shall approve or disapprove of the use of such list based upon the current department list. Disapproval of such a request shall not give rise to any right of administrative appeal.

310:410-3-14. Criteria for denial of initial authorization

A determination by the Commissioner of Health or designee to deny initial authorization shall be based upon a finding that one (1) or more of the following criteria are met:

(1) The applicant has not met the requirements of the USDA WIC Regulations or this part.

(2) The applicant has submitted false, erroneous, or inaccurate information on the application, or in the business or financial information provided to the department or during the course of the initial on-site inspection of the proposed vendor site.

(3) The applicant has refused to allow the department access to inspect the proposed vendor site during the applicant's normal business hours.

(4) The applicant has submitted a FEIN or Social Security number for the business entity to be operated at the proposed vendor site which is not the same FEIN or Social Security number filed for the same business entity with the USDA Food Stamp Program and/or with the Oklahoma Tax Commission.

(5) The applicant does not have the necessary local, municipal, or village license to operate as a business entity at the proposed vendor site.

(6) ~~With the exception of pharmacies, the~~The applicant has previously been authorized as a WIC vendor and the applicant's charges as a vendor for WIC approved foods, for a minimum of three (3) months during the agreement period, were:

(A) more than the department estimated costs for those WIC approved foods as reflected in the vendor price survey; or

(B) at least ~~five~~ten percent (~~5~~10%) or greater than the average charges submitted by other vendors of the same ~~store type in the same geographic region~~peer group.

(7) The applicant has previously been authorized as a WIC vendor and the applicant had more than one percent (1%) of all food instruments submitted to the contract bank, rejected per month for a maximum of three (3) months during an agreement period.

PART 7. WIC VENDOR AUTHORIZATION AND RESPONSIBILITIES

310:410-3-33. Food instrument processing

The vendor shall submit food instruments for payment for the provision of WIC supplemental foods in the following manner:

(1) The vendor shall ask the WIC participant or proxy for the WIC participant identification folder and the WIC food instrument.

(2) The vendor shall not accept a food instrument that is signed before the vendor fills in the actual amount of sale.

(3) The food instrument shall be accepted only within the time limits specified on the food instrument.

(4) The vendor shall ensure that the food items that the participant or proxy chooses to obtain from the food items

listed on the food instrument, are authorized WIC foods and are the food items stated on the food instrument.

(5) The vendor shall write the actual total shelf price or less on the food instrument. The food instrument shall be signed by the WIC participant or the approved proxy. Both of these actions shall take place at the vendor site unless the transaction is a participant or proxy requested delivery. The vendor shall not obtain the participant/proxy signature until after the actual amount of sale is put on the food instrument.

(6) The vendor shall verify the signature on the WIC participant identification folder against the signature on the food instrument, as either the name of a participant or a proxy. If the vendors finds any variation in the signatures, the vendor may request from the participant or proxy an additional form of identification with the participant's or proxy's signature. If the participant or proxy does not have another form of identification, the vendor may refuse the participant's or proxy's request to obtain the food.

(7) The vendor shall use the authorized stamp to imprint the assigned four (4) digit vendor number on the food instrument in the space indicated.

(8) The vendor shall deposit the food instrument in a local financial institution within ~~sixty~~thirty (~~6~~30) days from the "~~First~~Last Day to Use" printed on the food instrument.

(9) Any food instrument improperly completed by the vendor shall be rejected.

310:410-3-34. Specifications for rejection of food instruments

(a) Food instruments shall be rejected for payment for the following reasons:

(1) Submission of a food instrument before the "First Day to Use."

(2) Submission of a food instrument for payment more than ~~sixty~~thirty (~~6~~30) calendar days past the "~~First~~Last Day to Use."

(3) Submission of a food instrument identified by the department or the department's fiscal processor as invalid vendor.

(4) Submission of a food instrument by an unauthorized vendor, or submission of a food instrument which has an unauthorized, inaccurate, or missing vendor number.

(5) Submission of a food instrument without a participant or proxy signature.

(6) Submission of a food instrument whose value is greater than the maximum value amount ~~printed on~~of the food instrument.

(7) Submission of a food instrument which has been altered.

(b) Food instruments presented to the department's contract bank without the participant's signature, with a missing, inaccurate, or invalid vendor number, or submitted for payment before the "First Day to Use," altered food instruments, or food instruments which have not been obligated by the local agency (stolen stock) shall not be paid. Appeal procedures for food instruments rejected as "invalid vendor" are:

(1) A notarized letter of request for payment shall be sent to the department with copies of the rejected food instruments. This letter shall state that the actual dollar value on each food instrument which the vendor intends to resubmit, does not exceed the original actual amount of sale which was indicated on the food instrument at the first presentation to the fiscal processor. This request shall be postmarked within fifteen (15) days from the first presentation of the food instruments at the department's contract bank.

(2) The vendor shall pay the department a non-refundable processing fee of fifteen dollars ($15) per occurrence, submission of food instrument(s) on a specific date, and three dollars ($3) for each rejected food instrument resubmitted. The cashier's check or money order shall be made payable to the Oklahoma State Department of Health WIC Program and shall accompany the notarized letter and the copy of the food instruments which the vendor is requesting clearance to resubmit.

(3) The department shall review the request and the food instruments for the actual amount of sale and the date of presentation at the contract bank. If the food instruments pass review, the department shall send a certified letter of clearance to the vendor, which shall provide seven (7) calendar days in which the contract bank is authorized by the department to accept the food instruments for resubmission.

(c) Excessive rejection of food instruments may be grounds for denial of authorization of the vendor's agreement.

PART 9. WIC VENDOR COMPLIANCE AND SANCTIONS

310:410-3-52. WIC vendor sanctions

Any Class A or B violation shall subject the vendor to reimburse the department for any overcharges, charges for items not received by WIC participants, and monies paid for products not authorized as WIC approved foods.

(1) Any Class A violation shall constitute grounds for disqualification of authorization to the WIC Program. If the department determines that disqualification of the vendor would result in inadequate participant access, the department shall impose a civil money penalty in lieu of disqualification. The length of each disqualification is listed below.

(A) Permanent disqualification:

~~(1)~~ A vendor convicted of trafficking in food instruments or selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of Controlled Substances Act (21 U.S.C. 802)) in exchange for food instruments.

(B) Six-year disqualification:

(~~1~~ i) One incidence of buying or selling food instruments for cash (trafficking); or

(~~2~~ ii) One incidence of selling firearms, ammunition, explosives, or controlled substances as

defined in 21 U.S.C. 802, in exchange for food instruments.

(C) Three-year disqualification:

(~~1~~ i) One incidence of sale of alcohol or alcoholic beverages or tobacco products in exchange for food instruments; or

(~~2~~ ii) A pattern of claiming reimbursement for sale of an amount of a specific WIC food item which exceeds the store's documented inventory of that WIC food item for a specific period of time; or

(~~3~~ iii) A pattern of charging participants more for WIC food than non-WIC customers or charging participants more than the current shelf or agreement price; or

(~~4~~ iv) A pattern of receiving, transacting and/or redeeming food instruments outside of authorized channels, including the use of an unauthorized vendor and/or an unauthorized person; or

(~~5~~ v) A pattern of charging for WIC food not received by the participant, proxy, or department representatives; or

(~~6~~ vi) A pattern of providing credit or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, in exchange for food instruments.

(D) One-year disqualification:

~~(1)~~ A pattern of providing unauthorized food items in exchange for food instruments, including charging for supplemental foods provided in excess of those listed on the food instrument.

(E) Disqualification period equal to Food Stamp Program disqualification:

(~~1~~ i) Permanent disqualification, disqualification or suspension from participation in the USDA Food Stamp Program, or imposition of a civil money penalty by the Food Stamp Program;

(~~2~~ ii) Such sanction shall not be subject to administrative or judicial review under the WIC program.

(F) Voluntary withdrawal or non-renewal of agreement:

(~~1~~ i) The department shall not accept voluntary withdrawal of the vendor from the Program as an alternative to disqualification for violations listed in this section, but shall enter the disqualification on the record; or

(~~2~~ ii) The department shall not use non-renewal of the vendor agreement as an alternative to disqualification.

(G) Civil Money Penalty (For each violation subject to a mandatory sanction):

(~~1~~ i) The department shall impose a Civil Money Penalty in lieu of WIC Program disqualification if such disqualification of the vendor would result in inadequate WIC participant access.

(~~2~~ ii) The civil money penalty shall not exceed $1~~0~~1,000 for each violation and shall not exceed $4~~0~~4,000 for a single investigation.

(2) Any Class B violation shall constitute grounds for the following sanctions:

(A) For the first Class B violation, the WIC retail vendor shall be given written notice of the violation and shall be given an administrative warning.

(B) For the second Class B violation committed within one (1) year of the first Class B violation, the vendor shall be subject to a fine assessment of five hundred dollars ($500). The vendor shall also be required to attend a compliance training workshop.

(C) The third Class B violation committed within two (2) years of the first Class B violation shall subject the vendor to a fine assessment of one thousand dollars ($1,000).

(D) The fourth Class B violation committed within two (2) years of the first Class B violation shall be grounds for termination of the vendor authorization, and to a fine assessment of two thousand, five hundred dollars ($2,500).

(3) Any Class C violation shall constitute issuance of an administrative warning. Five (5) Class C violations within a one (1) year period shall be grounds for termination of the vendor authorization for a period of one (1) year.

(4) Second mandatory sanction, a vendor, who previously has been assessed a sanction for any of the violations listed in this part, receives another sanction for any of these violations, the department shall double the sanction.

(5) Third or subsequent mandatory sanction, a vendor, who previously has been assessed two or more sanctions for any of the violations in this part, receives another sanction for any of these violations, the department shall double the third sanction and all subsequent sanctions. The department shall not impose civil money penalties in lieu of disqualification for third or subsequent sanctions for violations listed in this part.

(6) The time period shall commence from the time the notice of violation, termination, or fine assessment is issued by the department.

(7) All fine assessments shall be paid by cashier certified check or money order in United States currency.

[OAR Docket #08-562; filed 4-3-08]

TITLE 318. HIGHWAY CONSTRUCTION MATERIALS TECHNICIAN CERTIFICATION BOARD
CHAPTER 10. EXAMINATION AND CERTIFICATION

[OAR Docket #08-630]

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PERMANENT final adoption

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318:10-1-1. Purpose [AMENDED]
318:10-1-3.1. Training of Personnel Not Seeking Certification [NEW]
318:10-1-4. Examination Criteria [AMENDED]
318:10-1-11. Fees [AMENDED]
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ANALYSIS:
In 1999 the Oklahoma Highway Construction Materials Technician Registration Act (69 O.S. Section 1953) created a new board for the purpose of administering a training and certification program for technicians involved in sampling and/or testing highway construction materials. In 2007 the Act was amended to also provide training only of construction inspectors, first line construction supervisors and others not seeking certification as a materials technician. These rules are in response to the amendment to the Act. They also slightly liberalize the practical portion of the technician certification criteria and increase some of the training fees to reflect actual costs.
CONTACT PERSON:
Reynolds Toney or Scott Seiter, Materials Division, Oklahoma Department of Transportation, 200 N.E. 21st Street, Oklahoma City, Oklahoma 73105-3204, Phone 405-521-2677.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A) WITH AN EFFECTIVE DATE OF MAY 15, 2008:

318:10-1-1. Purpose

The Rules in this Chapter set forth the training, examination and certification procedures governing highway construction materials technician training and certification and training of others in Oklahoma as authorized by the Act.

318:10-1-3.1. Training of personnel not seeking certification

Construction inspectors, first line construction supervisors, and others not seeking certification as a materials technician may apply for training in various areas of construction. Fees for such training shall be determined in accordance with the same procedures as those for training of materials technicians.

318:10-1-4. Examination Criteria

(a) Applicants shall achieve passing scores on both written and practical examinations
prescribed by the Board. On the written examination, a passing score shall consist of a minimum score of seventy percent (70%) on each section and a minimum average score of eighty percent(80%) on all sections combined. On the practical examination, a passing score shall consist of successful completion of a series of sampling and testing procedures.
(b) Examinations shall be administered by the Board or an evaluator approved by the Board.
Evaluators shall be construction materials technicians or person approved by the Board to administer examinations.
(c) Applicants failing to achieve a passing score on the written examination may retake the
examinations one (1) time within ~~thirty (30)~~ sixty (60) days after notification of the failing score. Applicants failing to achieve a passing score on the subsequent written examination shall not be considered for certification until re-satisfying all certification requirements.
(d) ~~Applicants failing to achieve a passing score on the practical examination shall not be considered for certification.~~ Applicants failing to achieve a passing score on any procedure in the practical examination will be given one opportunity to re-attempt that procedure between seven (7) and sixty (60) days after the notification of failing. Applicants failing to pass the procedure on the subsequent attempt shall not be considered for certification until re-satisfying all certification requirements.

318:10-1-11. Fees

(a) Applicants shall pay the following training fees (when applicable):
(1) ~~Five Day Training in Soils, Aggregates, Asphalt Materials, Concrete Materials, Asphalt Construction, or Concrete Construction: $400.00 each.~~ No more than $450.00 for modules with a duration of five (5) days or less.
(2) ~~Three Day Training in Statistics: $450.00 each.~~ Fees for modules with a duration exceeding five days shall be based upon a a rate of not more than $90.00 per day.
~~(3) Fees for new or modified training modules will be based on a rate of $80.00 per day.~~
(b) Applicants shall pay the following certification fees (when applicable):
(1) Three-Day Certification Examinations in Sampling and Testing of Asphalt: $975.00 each

(2) Two-Day Certification Examinations in Sampling and Testing of Soils: $650.00

(3) One-Day Certification Examinations in Sampling and Testing of Concrete: $325.00

(4) One-Day Certification Examinations in Sampling and Testing of Aggregates: $325.00

(5) One-Day Certification Examinations in Profilograph Operation: $375.00

(6) One-Day Certification Examinations to Supplement American Concrete Institute Certification: $325.00

(7) Three-Day Certification Examination in Field Testing of Concrete and Sampling of Soils, Aggregates, Asphalt, and Concrete: $975.00

(8) One-Day Certification Examination in Sampling Only of Asphalt: $325.00

(9) Re-Certification Examinations: Same as the Applicable Certification Fee

(10) Temporary Certification: Same as applicable certification fee (to be applied toward full certification fee if applicant is certified at the next available certification module.)

(11) Apprentice Certification: $100.00 in each area (to be applied toward full certification fee(s) if applicant is certified within one year after beginning each apprenticeship.)

(12) Fees for applicants seeking certification through reciprocity shall be one-half (1/2) the applicable certification examination fee(s).

(13) Fees for new or modified certifications will be based on a rate not to exceed $325.00 per day.

(c) Administrative Fee for returned checks: $25.00

(d) Duplicate certificate fee: $15.00

[OAR Docket #08-630; filed 4-9-08]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 10. RACING ORGANIZATION

[OAR Docket #08-547]

RULEMAKING ACTION:
PERMANENT final adoption
RULE:
325:10-1-25. Ambulance service [AMENDED]
AUTHORITY:
75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission
DATES:
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May 11, 2008
SUPERSEDED EMERGENCY ACTIONS:
Not Applicable
INCORPORATED BY REFERENCE:
Not Applicable
ANALYSIS:
Amendment to Rule 325:10-1-25 was proposed by the Commission Executive Director to clarify the requirements of an ambulance and its properly qualified attendants for responding to emergency service needs on the racetrack. The current language did not specify the requirements of an ambulance as it relates to emergency services on the racetrack.
CONTACT PERSON:
Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2614 Villa Prom, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2008:

325:10-1-25. Ambulance service

Subject to the approval of the Commission, the organization shall provide the services of a ~~medical ambulance and its properly qualified attendants at all times during the running of the race program at its meeting and, except with prior permission of the Commission, during the hours the organization permit the use of its race course for training purposes.~~ properly equipped ambulance vehicle, at least one driver, and at least one attendant at a level equal to or greater than EMT/Intermediate as defined by the Oklahoma Emergency Response Systems Act and the Emergency Medical Services Regulations promulgated by the Oklahoma State Board of Health at all times during the running of a race program at its meeting and during the hours the organization permits the use of its race course for training purposes. The ambulance vehicle shall be properly equipped pursuant to the Oklahoma Emergency Response Systems Act and the Emergency Medical Services Regulations promulgated by the Oklahoma State Board of Health. The organization shall also provide the service of a horse ambulance during the same hours. A means of communication shall be provided by the organization between a staffed observation point (Stewards' Tower and Clocker's Stand) for the race course and the place where the required ambulances and their attendants are posted for prompt response in the event of accident to any person or horse. In the event an emergency necessitates the departure of ~~a required~~ an ambulance, the race course shall be closed until an ambulance is again available within the enclosure.

[OAR Docket #08-547; filed 4-1-08]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 15. LICENSING

[OAR Docket #08-548]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Occupation Licensing
325:15-1-29. Workers' Compensation Act compliance [AMENDED]
325:15-5-22. Qualifications for license as horse owner [AMENDED]
AUTHORITY:
75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission
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SUPERSEDED EMERGENCY ACTIONS:
Not Applicable
INCORPORATED BY REFERENCE:
Not Applicable
ANALYSIS:
Amendment to 325:15-5-19 was proposed by the Commission Executive Director since the current language did not provide any disciplinary action against a licensee operating without proper workers' compensation insurance. The adopted amendment would set disciplinary action for a licensee operating without proper workers' compensation insurance through a fine not less than $500 and/or suspension of the occupation license.

Amendment to 325:15-5-22 was proposed by the Commission Executive Director to remove Commissioners from a list of those who cannot be licensed also as an Owner due to the 2006 statutory change to Section 201, Title 3A, Oklahoma Horse Racing Act, in which at least three Commissioners with horse industry experience may also be licensed as Owners.
CONTACT PERSON:
Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2614 Villa Prom, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2008:

SUBCHAPTER 5. OCCUPATION LICENSING

325:15-5-19. Workers' Compensation Act compliance

(a) No person may be licensed as a Trainer, Owner, or in any other capacity in which such person acts as the employer of any other licensee upon the racetrack enclosure operated by an organization licensee at any time during the calendar year for which the organization license has been issued, unless his/her liability for Workers' Compensation has been secured in accordance with the Workers' Compensation Act of the State of Oklahoma, 85 O.S., § 1 et seq., and until a Certificate of Insurance or other appropriate evidence of self-insurance evidencing such security for liability is provided to the Commission. Should any such required security for liability for Workers' Compensation be canceled or terminated, any occupation license held by such person may be subject to summary suspension and may be grounds for revocation of the license. Failure to comply with the provision by a person licensed as a Trainer, Owner or in any other capacity on the grounds of an Organization Licensee who employs any individual without proper Worker's Compensation insurance may result in a fine no less than $500 and/or suspension of the occupation license.

(b) If a license applicant or licensee certifies that s/he has no employees that would subject him/her to liability for Workers' Compensation, s/he may be licensed until such time as s/he has employees, when s/he must inform the Commission of such employee(s) and furnish a Certificate of Insurance or other appropriate evidence of self-insurance evidencing that the employee(s) are covered by Workers' Compensation Insurance.

325:15-5-22. Qualifications for license as horse owner

No person may be licensed as a horse Owner who is not the owner of record of a properly registered race horse which s/he intends to race in Oklahoma and which is in the care of a licensed Trainer, or who does not have an interest in such racehorse as a part owner or lessee, or who is not the responsible managing owner of a corporation, syndicate or partnership which is the legal owner of such horse. No ~~Commissioner,~~ Commission employee, or person licensed by the Commission as a Jockey, or person licensed by the Commission as a practicing Veterinarian, Racing Official, Assistant Starter or Official Veterinarian and his or her assistants, Jockey Room Custodian, or Valet shall be licensed also as a horse Owner. A horse Owner's license shall be granted to individual natural persons only.

[OAR Docket #08-548; filed 4-1-08]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 20. RACING OFFICIALS AND RACING PERSONNEL

[OAR Docket #08-549]

RULEMAKING ACTION:
PERMANENT final adoption
RULE:
325:20-1-13. Duties of the starter [AMENDED]

AUTHORITY:
75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission
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SUPERSEDED EMERGENCY ACTIONS:
Not Applicable
INCORPORATED BY REFERENCE:
Not Applicable
ANALYSIS:
Amendment was proposed to 325:20-1-13 by the Commission Executive Director to ensure statewide consistency to the starting gate procedures among the racetracks licensed by the Oklahoma Horse Racing Commission.
CONTACT PERSON:
Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2614 Villa Prom, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2008:

325:20-1-13. Duties of the Starter

The Starter shall have complete jurisdiction over the starting gate, the starting of horses, and the authority to give orders not in conflict with the provisions of the Act and the rules in this Title as may be required to ensure all participants an equal opportunity to a fair start. The Starter shall appoint his/her assistants; however, s/he shall not permit his/her assistants to handle or take charge of any horse in the starting gate without his/her expressed permission. In the event that organization starter assistants are unavailable to head a horse, the responsibility to provide qualified individuals to head and/or tail a horse in the starting gate shall rest with the Trainer. The Starter shall establish qualifications for Organization Assistant Starters and maintain a list of such qualified individuals approved by the Stewards. No Assistant Starter or any individual handling a horse at the starting gate shall in any way impede, whether intentionally or otherwise, the start of the race; nor may an Assistant Starter or other individual, except the Jockey handling the horse at the starting gate, apply a whip or other device in an attempt to load any horse in the starting gate. No one other than the Jockey shall slap, boot, or otherwise attempt to dispatch a horse from the starting gate.

[OAR Docket #08-549; filed 4-1-08]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 60. RUNNING THE RACE

[OAR Docket #08-550]

RULEMAKING ACTION:
PERMANENT final adoption
RULE:
325:60-1-21. Careless riding [AMENDED]
AUTHORITY:
75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission
DATES:
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May 11, 2008
SUPERSEDED EMERGENCY ACTIONS:
Not Applicable
INCORPORATED BY REFERENCE:
Not Applicable
ANALYSIS:
Amendment was proposed to 325:60-1-21 by the Commission Executive Director to eliminate disqualifications whereby unintentional striking could still be considered by the Board of Stewards. The current language also allowed the Board of Stewards to disqualify the Jockey if the striking at another horse or Jockey was done willfully. Also, there was no definition for 'willful.'
CONTACT PERSON:
Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2614 Villa Prom, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2008:

325:60-1-21. Careless riding

A Jockey shall not ride carelessly or willfully so as to permit his/her mount to interfere with or impede any other horse in the race. A Jockey shall not ~~willfully~~ strike at another horse or Jockey so as to impede, interfere with, or injure the other

horse or Jockey. If a Jockey rides in a manner contrary to this Section, the horse may be disqualified and/or the Jockey may be fined and/or suspended or otherwise disciplined.

[OAR Docket #08-550; filed 4-1-08]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 75. OKLAHOMA-BRED PROGRAM

[OAR Docket #08-551]

RULEMAKING ACTION:
PERMANENT final adoption
RULE:
325:75-1-3. Definition of accredited Oklahoma-Bred [AMENDED]
AUTHORITY:
75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission
DATES:
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Not Applicable
INCORPORATED BY REFERENCE:
Not Applicable
ANALYSIS:
Amendment was proposed to 325:60-1-21 by the Oklahoma-Bred Registrar to make the rule more clear and workable regarding accreditation and reaccreditation of broodmares. This proposed amendment was in response to confusion in the horse racing industry regarding the Oklahoma-Bred rules for accreditation and reaccreditation requirements for broodmares.
CONTACT PERSON:
Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2614 Villa Prom, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2008:

325:75-1-3. Definition of accredited Oklahoma-Bred

As used in this Chapter, an accredited Oklahoma-Bred horse shall mean an Arabian horse, Appaloosa horse, Quarter Horse, Paint horse, Pinto horse, Thoroughbred horse, or a horse of any other breed not otherwise specified in the Act, and which horse meets the requirements below:

(1) **Stallion.** An accredited Oklahoma-Bred stallion is one that is permanently domiciled in Oklahoma, stands for service in Oklahoma, and is registered in the Oklahoma-Bred Program ~~permanent~~ stallion registry. An Oklahoma-Bred that is accredited as racing stock is not registered as breeding stock in the registry. For resulting foals to be eligible for accreditation as an Oklahoma-Bred, the stallion must be registered in the Oklahoma-Bred Program ~~permanent~~ stallion registry prior to the service that produces the resulting foal. ~~Except for those foals that are sired by non-accredited stallions which are eligible for registration in the Oklahoma-Bred Program, any foals conceived prior to the stallion being registered in the Oklahoma-Bred Program permanent stallion registry will not be eligible for accreditation.~~ Domicile begins when the stallion's registration is filed with the Oklahoma-Bred Registering Agency and such registration is in substantial compliance with the registration requirements of the registry. A stallion's accreditation shall be forfeited if the stallion leaves Oklahoma for reasons other than racing, medical treatment, performance, or approved departure for breeding purposes in another hemisphere. Approved departure for breeding purposes shall be granted by the Registering Agency upon written notification by the stallion owner or manager as to the destination of the stallion, the duration of the absence of the stallion, and the date the stallion will return to Oklahoma. The stallion must return to Oklahoma to resume his domicile prior to February 1 of the subsequent year. If a stallion loses his accreditation, to become eligible for future stallion awards a stallion must re-register in the Oklahoma-Bred Program, including payment of required fees, and resume his domicile within Oklahoma. Except for late applications, the stallion's registration must be filed with the Oklahoma-Bred Registering Agency by February 1 of that breeding season. Late applications will be accepted by the Oklahoma-Bred Registering Agency after February 1 and through June 30 of that breeding season at twice the normal fee. If a stallion stands for service outside of Oklahoma during the calendar year in which the foal(s) was conceived, any foal conceived after registration of the stallion in the Oklahoma-Bred ~~permanent~~ stallion registry and while the accredited stallion was standing in Oklahoma and which otherwise is eligible for accreditation may be registered in the Oklahoma-Bred Program upon presentation of acceptable documentation reflecting that the service producing the foal occurred while the accredited stallion was standing in Oklahoma. The owner of a stallion that stood for service outside of Oklahoma during the calendar year shall be eligible for stallion awards from those breedings that occurred while the accredited stallion stood in Oklahoma. The Commission may require a copy of the stallion breeding report submitted to the official breed registry, or other acceptable verification approved by the Commission, for any breeding season during which the stallion is standing

as an accredited Oklahoma-Bred stallion. Failure to provide the required documentation for any year shall result in the stallion owner being ineligible for stallion awards for all foals resulting from that breeding season unless the required documentation is received by the Commission Inspector upon written notice. Further, foals shall be ineligible for accreditation unless the required stallion breeding report or other acceptable verification is received by the Commission not later than ten (10) days after written request. The owner of an accredited Oklahoma-Bred stallion (for the purpose of qualifying for stallion awards) is the owner or lessee of record at the time the offspring is conceived.

(2) **Broodmare.** An accredited Oklahoma-Bred broodmare is one that is permanently domiciled in Oklahoma and is registered in the Oklahoma-Bred Program ~~permanent~~ broodmare registry. An Oklahoma-Bred that is accredited as racing stock is not registered as breeding stock in the registry. Domicile begins when the broodmare's registration is filed with the Oklahoma-Bred Registering Agency and such registration is in substantial compliance with the registration requirements of the registry. Except for late applications and hardship applications, the broodmare's registration must be filed with the Oklahoma-Bred Registering Agency by December 31 of the year prior to foaling.

(A) **Thoroughbred Broodmares Serviced by Thoroughbred Stallions:** An accredited Oklahoma-Bred broodmare may be shipped out of Oklahoma to be ~~served~~ serviced by a non-accredited Thoroughbred stallion, provided she is returned to Oklahoma to resume her domicile not later than August 15 of ~~that year~~ the calendar year in which she is serviced. Failure of the accredited broodmare to return to Oklahoma to resume her domicile not later than August 15 shall ~~result~~ have two results: First, the broodmare loses her accreditation in the program; Second, ~~in~~ the resultant foal ~~being~~ is ineligible for registration in the Oklahoma-Bred Program. ~~Further, except in the case of an accredited Thoroughbred mare carrying a Thoroughbred foal, which must return to Oklahoma to resume her domicile not later than August 15 of the year prior to foaling~~

(B) **Quarter Horse, Paint, Appaloosa Broodmares and Thoroughbred Broodmares Serviced by Non-Thoroughbred Stallions:** ~~a~~ An accredited Oklahoma-Bred broodmare that returns to Oklahoma after August 15 shall result in the resultant foal being ineligible for registration in the Oklahoma-Bred Program. The broodmare shall not be eligible to produce a foal that is eligible for registration in the Oklahoma-Bred Program unless she returns to Oklahoma to resume her domicile not later than December 31 of the year prior to being bred to an accredited Oklahoma-Bred stallion and that written notice of such return has been received by the Oklahoma-Bred Registering Agency. If a broodmare leaves the State of Oklahoma, terminating her domicile to produce foal(s) in a jurisdiction other than Oklahoma, that broodmare will not be eligible to produce subsequent foals for accreditation or earn broodmare awards for those foals until she returns to Oklahoma to re-establish her domicile and the appropriate fees are paid to re-register her in the Oklahoma-Bred ~~Permanent~~ Broodmare Registry. The Commission may request a copy of the foal report submitted to the official breed registry for any accredited Oklahoma-Bred broodmare. ~~The owner of an accredited Oklahoma-Bred Thoroughbred broodmare (for purposes of qualifying for broodmare awards) is the owner or lessee of record at the time of foaling. As to all breeds other than Thoroughbred, the owner of an accredited Oklahoma-Bred broodmare (for purposes of qualifying for broodmare awards) is the owner or lessee of record at the time of conception.~~

(C) **Reaccreditation Rule:** If a broodmare leaves the State of Oklahoma for any reason other than breeding, performance or medical, that broodmare shall not be eligible to produce a foal that is eligible for registration in the Oklahoma-Bred Program unless she returns to Oklahoma to re-establish her domicile; the appropriate fees to re-register her in the Oklahoma-Bred Program are paid; and all other qualifying requirements are met.

(D) **For Purposes of Qualifying for Broodmare Awards:** The owner of an accredited Oklahoma-Bred Thoroughbred broodmare is the owner or lessee of record at the time of foaling. As to all breeds other than Thoroughbred, the owner of an accredited Oklahoma-Bred broodmare is the owner or lessee of record at the time of conception.

(3) **Hardship application.** Notwithstanding other provisions of this Section, a mare registered in the Oklahoma-Bred Program as racing stock (with proper Oklahoma-Bred stamp) which has not been registered as a broodmare in the Oklahoma-Bred ~~permanent~~ broodmare registry prior to foaling a foal that would otherwise be eligible for registration in the Oklahoma-Bred Program may be registered in the Oklahoma-Bred ~~permanent~~ broodmare registry upon payment of the normal registration fee plus an additional $200.00 and further provided all other qualifications and requirements for registration as a broodmare in the Oklahoma-Bred ~~permanent~~ broodmare registry are met. The Commission may require proof that all requirements for registration have been met. In such event, any foal out of that broodmare that would otherwise be eligible for registration as racing stock in the Oklahoma-Bred Program will be eligible for registration upon registration of the broodmare in the Oklahoma-Bred ~~permanent~~ broodmare registry. Acceptance of a foal application under these circumstances by the official Registering Agency is subject to the broodmare being registered under a hardship application in the Oklahoma-Bred ~~permanent~~ broodmare registry within sixty (60) days from receipt of notice by the broodmare owner that the broodmare was not registered in the Oklahoma-Bred ~~permanent~~ broodmare registry.

The fee to register the racing stock in the Oklahoma-Bred Program will be based upon the age of the foal on the date the Oklahoma-Bred Registering Agency received the racing stock application. Failure to register a broodmare under a hardship application within sixty (60) days from receipt of notice from the official Registering Agency that the broodmare was accredited as racing stock in the Oklahoma-Bred Program and not as a broodmare in the Oklahoma-Bred ~~permanent~~ broodmare registry, will result in the rejection of any pending racing stock applications for foals out of that mare.

(4) **Racing stock.** An accredited Oklahoma-Bred racehorse is one that foaled in Oklahoma, and meets the following requirements:

(A) Thoroughbreds: Beginning with the foal crop of 2001 there will be two (2) classifications of Thoroughbred foals eligible for accreditation in the Oklahoma-Bred program. The category for those foals out of an accredited Oklahoma-Bred broodmare and by an accredited Oklahoma-Bred Stallion shall be classified as Oklahoma-Bred Conceived and Foaled. The second category for foals out of an accredited Oklahoma-Bred broodmare and by a non-accredited stallion shall be classified as Oklahoma-Bred Foaled. Provided all other requirements are met, both classifications are eligible for accreditation and may compete in Oklahoma-Bred races.

(B) All Other Breeds: and is by an accredited Oklahoma-Bred stallion and out of an accredited Oklahoma-Bred broodmare, except that a foal out of an accredited Oklahoma-Bred broodmare and by a non-accredited stallion may receive accreditation in the Oklahoma-Bred racing stock registry provided all other requirements are met. In such event, to be eligible for accreditation, the next foal out of said broodmare presented for accreditation must be by an accredited Oklahoma-Bred stallion and meet all other requirements. Further, in no event can a broodmare produce accredited Oklahoma-Bred foals in succession that are by non-accredited stallions. Except for the initial foal registered in the Oklahoma-Bred Program, all accredited foals sired by non-accredited stallions must be preceded (by year of birth) in the registry by an accredited foal sired by an accredited stallion. An Oklahoma-Bred that is accredited as racing stock is not registered as breeding stock in the registry. The owner of an accredited Oklahoma-Bred racehorse (for the purpose of qualifying for added purse supplements) is the owner or lessee of record at the time of the race.

(5) **Late applications.**

(A) **Broodmare.** A broodmare may be registered in the Oklahoma-Bred ~~permanent~~ broodmare registry after December 31 of the year prior to foaling if:

(i) the registration is submitted to the Oklahoma-Bred Registering Agency prior to foaling; and

(ii) the broodmare is otherwise in substantial compliance with the registration requirements of the registry. Domicile must begin when the broodmare's registration is filed with the Oklahoma-Bred Registering Agency.

(B) **Stallion.** A stallion may be registered in the Oklahoma-Bred ~~permanent~~ stallion registry after February 1 and by June 30 and complete the current breeding season if the stallion is otherwise in substantial compliance with the registration requirements of the registry. Domicile must begin when the stallion's registration is filed with the Oklahoma-Bred Registering Agency.

(C) **Fee.** The fee to register a broodmare or stallion under a late application is twice the regular fee. The fee will not be refunded if the Commission rejects the application but will be applied to registration of the horse for the next ensuing year.

(6) **Domicile exception.** An Oklahoma-Bred broodmare or stallion may leave Oklahoma for an indefinite period of time for race or performance purposes or for medical treatment; however, the burden of proof relating to such race, performance, or medical treatment shall be on the owner of record who shall produce such evidence to the Oklahoma-Bred Registering Agency upon request.

[OAR Docket #08-551; filed 4-1-08]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 85. GAMING MACHINE SPECIFICATIONS AND USE AND OPERATION REQUIREMENTS

[OAR Docket #08-552]

RULEMAKING ACTION:
PERMANENT final adoption
RULE:
Subchapter 25. Transportation, Receipt, Installation and Disposal of Gaming Machines
325:85-25-2. Transportation of gaming machines into the state [AMENDED]
325:85-25-4. Transportation of gaming machines between Commission licensed gaming facilities in the state [AMENDED]
AUTHORITY:
75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission
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Not Applicable
INCORPORATED BY REFERENCE:
Not Applicable
ANALYSIS:
Amendment to 325:85-25-2 was proposed by a Commission Gaming Agent to provide more information about the storage devices that need to be removed before shipping into the state. The Agent also proposed language for possible disciplinary action if the removals are not done. The adopted amendment will further expand and explain the storage devices that must be removed prior to shipping into the state and also provide disciplinary action for non-compliance.
Amendment to 325:85-25-4 was proposed by a Commission Gaming Agent to provide more information about the storage devices that need to be removed before shipping between Commission licensed gaming facilities in the state. The Agent also proposed language for possible disciplinary action if the removals are not done. The adopted amendment will further expand and explain the storage devices that must be removed prior to shipping between Commission licensed gaming facilities in the state and also provide disciplinary action for non-compliance.
CONTACT PERSON:
Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2614 Villa Prom, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2008:

SUBCHAPTER 25. TRANSPORTATION, RECEIPT, INSTALLATION AND DISPOSAL OF GAMING MACHINES

325:85-25-2. Transportation of gaming machines into the state

(a) A Gaming Machine is shipped or transported into the State when the starting point for shipping or transporting begins outside the State and the shipping or transporting terminates in the State.
(b) A licensed Manufacturer shipping or transporting a Gaming Machine into the State for use at a Gaming Facility must provide the following information to the Commission, prior to shipment, on forms provided or approved by the Commission:
(1) the full name, address, and license number of the Person making the shipment;
(2) the method of shipment and the name of the carrier, if any;
(3) the full name, address, and license number of the Person to whom the Gaming Machines are being sent and the destination of the shipment, if different from the address;
(4) the number of Gaming Machines in the shipment;
(5) the serial number of each Gaming Machine;
(6) the model number and description of each Gaming Machine;
(7) the expected arrival date of the Gaming Machines at their destination within the State; ~~and~~
(8) All controlled program devices or other system components certified by a Commission licensed Independent Testing Laboratory that require signature verification prior to installation must be removed from and shipped separately from all gaming machines being shipped.
(9) All controlled program devices or other system components that are shipped to a Racetrack Gaming Operator Licensee must arrive at least five business days prior to installation addressed to the Commission Agents for signature verification, unless a written waiver is given by the Commission; and
(~~8~~ 10) such other information as required by the Commission.
(11) Non-compliance shall result in disciplinary action.

325:85-25-4. Transportation of gaming machines between Commission licensed gaming facilities in the state

(a) Manufacturer Licensees, Distributor Licensees, and, subject to the limitations set forth in these rules, Racetrack Gaming Operator Licensees are authorized to transport Gaming Machines within the State.
(b) Except as otherwise provided in these rules, any authorized Person transporting a Gaming Machine from one location to another in the State for use by a Gaming Facility licensed by the Commission must notify the Commission before transporting the Gaming Machine and provide the following information on forms provided or approved by the Commission:
(1) the full name, address, and license number of the Person transporting the Gaming Machine from its current location;
(2) the reason for transporting the Gaming Machine;
(3) the full name, address, and license number of the Person to whom the Gaming Machine is being sent and the destination of the Gaming Machine if different from that address;
(4) the name and address of the carrier and the method of transport;
(5) the model and serial number of the Gaming Machine;
(6) the Gaming Machine License number, if any;
(7) the Manufacturer of the Gaming Machine;
(8) the expected date and time of delivery and/or installation of the Gaming Machine at the new location;
(9) All controlled program devices or other system components certified by a Commission licensed Independent Testing Laboratory that require signature verification prior to installation must be removed from and shipped separately from all gaming machines being shipped.
(10) All controlled program or other system components that are shipped to a Racetrack Gaming Operator Licensee must arrive at least five business days prior to installation

addressed to the Commission Agents for signature verification, unless a written waiver is given by the Commission; and

(~~9~~ 11) such other information as the Commission may require.

(12) Non-compliance shall result in disciplinary action.

(c) This section does not apply to the movement of Gaming Machines within the same Gaming Facility. Such relocation is subject to Commission approval pursuant to these Rules.

(d) A Racetrack Gaming Operator Licensee may sell or transfer a Gaming Machine only to another Racetrack Gaming Operator Licensee or to a licensed Distributor, Manufacturer, or licensed Distributor/Manufacturer, or a federally recognized Indian tribe that is operating under a Compact. The Racetrack Gaming Operator Licensee must notify the Commission in advance by providing the information required by this section.

[OAR Docket #08-552; filed 4-1-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #08-460]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Human Resources Management Division (HRMD)
Part 3. Internal Human Resources
340:2-1-33 [REVOKED]
(Reference APA WF 07-31)
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Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Sections 250 et seq. of Title 75 of the Oklahoma Statutes.
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N/A
ANALYSIS:
The revision to Subchapter 1 of Chapter 2 revokes a rule that is internal Oklahoma Department of Human Services (OKDHS) procedure.

CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2008:

SUBCHAPTER 1. HUMAN RESOURCES MANAGEMENT DIVISION (HRMD)

PART 3. INTERNAL HUMAN RESOURCES

340:2-1-33. Fair Labor Standards Act rules [REVOKED]

~~(a) **Statement of policy.** It is the policy of the Department of Human Services to comply fully with the provisions of the Federal Fair Labor Standards Act (FLSA), as amended. Managers, supervisors, and employees are responsible for making every effort to accomplish essential work within the regularly assigned 40 hours per week. Any overtime worked by FLSA non-exempt employees must be necessary to the continued effective operations of the Department and is managed in the most efficient and economical manner possible. Any overtime worked by FLSA non-exempt employees is compensated in accordance with the Fair Labor Standards Act and these policies and procedures.~~

~~(1) It is the policy of the State of Oklahoma and the Department of Human Services to utilize work week adjustments whenever possible to avoid overtime work by FLSA non-exempt employees, and, where work week adjustments are not possible, to grant employees compensatory time at the rate of one and one-half times the number of overtime hours worked. Payment for overtime work is only made as required by the FLSA, state law, or merit rules, or when authorized by the Director or designee. Any delegation of authority to approve overtime payments must be made in writing.~~

~~(2) FLSA exempt employees are normally expected to accomplish their assigned duties within the regular work week. However, when this is not possible, such employees are expected to devote whatever time is necessary to fulfill their responsibilities. Compensatory time or overtime pay for FLSA exempt employees is only granted in exceptional circumstances and when authorized by the Director. The Office of Personnel Management approves any overtime payments for FLSA exempt employees.~~

~~(3) Local administrators are responsible for ensuring that the rules and regulations governing overtime work, including the OPM policy guidelines for the Fair Labor Standards Act, DHS FLSA policies and procedures, and bulletins and publications provided by the U.S. Department of Labor, are available for review by Department employees.~~

~~(b) **Coverage of employees.** A list of DHS classifications indicating the FLSA exempt or non-exempt designation is found in DHS Appendix E-3, List of All Job Classes with FLSA Designation. Classifications which indicate an asterisk (*) under the FLSA column are reviewed on an individual basis to determine whether the position is exempt or non-exempt. Employees occupying positions so designated submit Form OPM-39, Position Description Questionnaire, through appropriate supervisory channels, to the Human Resources Management Division (HRMD), Employee Services Unit for a decision concerning the FLSA status of the position. Additionally, employees and supervisors who believe a position within their authority is incorrectly designated request a review using the same procedure.~~

~~(1) **FLSA exempt employees.** The Fair Labor Standards Act provides definitions for positions which are professional, administrative, or executive, and exempts those positions from the FLSA. These definitions are included in the OPM FLSA Policy Guidelines, and are reviewed should a question arise concerning the FLSA status of a particular position. Employees occupying FLSA defined administrative, executive, and professional positions are exempt from the overtime provisions of the Fair Labor Standards Act, and are designated as "FLSA Exempt."~~

~~(2) **FLSA non-exempt employees.** All DHS employees, regardless of status or type of service, who are not included in the administrative, professional, or executive exemptions are subject to the provisions of the FLSA and designated as "FLSA non-exempt."~~

~~(c) **FLSA compliance.** FLSA compliance is described in (1)-(2) of this subsection.~~

~~(1) **Staff training and technical assistance.** The DHS FLSA Compliance Officer of the HRMD, Employee Services Unit has primary responsibility for conducting internal audits and complaints investigations, providing training and technical assistance to staff concerning the requirements and application of the FLSA, assisting in the resolution of disputes concerning overtime issues, and providing interpretation of FLSA policies, procedures, rules, laws, and regulations in all DHS offices and facilities to ensure compliance with the FLSA.~~

~~(2) **Audits by U. S. Department of Labor.** The Department cooperates fully in investigations by the U. S. Department of Labor (DOL). The local administrator is responsible for ensuring that the Division Administrator for the office or program area under review, the DHS Legal Division, and the Division Administrator for Human Resources Management Division, when appropriate, are immediately notified of any and all contacts by Department of Labor officials. Local administrators are authorized to provide access to records and report to DOL officials as necessary for audit purposes.~~

[OAR Docket #08-460; filed 3-27-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #08-462]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Fair Hearings
Part 11. Child Care Facility Licensing
340:2-5-112 [AMENDED]
340:2-5-119 [AMENDED]
(Reference APA WF 07-14)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Due Process of Law, Article II, Section 7 of the Oklahoma Constitution.
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Subchapter 5. Fair Hearings
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340:2-5-119 [AMENDED]
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August 3, 2007
Register publication:
25 Ok Reg 12
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07-1355
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The revisions to Subchapter 5 of Chapter 2 amend the rules to: (1) expand definitions of "official record" to include a transcript of the hearing; (2) provide a definition of "clear and convincing evidence"; and (3) conform the standard of proof in child care licensing proceedings to due process requirements.
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2008:

SUBCHAPTER 5. FAIR HEARINGS

PART 11. CHILD CARE FACILITY LICENSING

340:2-5-112. Definitions

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

"Access to the case file" means that the applicant, licensee, and authorized representative have the right to review any information to be used by the Oklahoma Department of Human Services (OKDHS) in the hearing.

(A) The review may be made at a reasonable time before the date of the hearing.

(B) Access to the case file means access to the applicant or licensee file but does not include the Children and Family Services Division (CFSD) records and any report to the district attorney unless ordered released by the administrative hearing officer (AHO). The order is based upon a request by the applicant or licensee and, after an in camera review by the AHO, a determination that a compelling reason exists and that disclosure is necessary for the protection of a public or private interest. Any child's name and the reporter's name is removed prior to submitting the information to the AHO.

(C) When a request for file access is made, the local office must make arrangements for the applicant or licensee and authorized representative to review the case file with as much privacy as possible. A supervisory staff member observes the review of the case file to ensure that contents of the case file are not removed from the record.

(D) The applicant, licensee, and authorized representative are free to make written notes from the record or obtain copies of available documents. An applicant, licensee, or representative is not charged for copies of documents made for the purpose of hearing preparation or presentation.

"Administrative hearing officer (AHO)" means:

(A) the professional staff member of the Appeals Unit who has been designated by the Appeals Unit supervisor to conduct an administrative hearing and issue a decision; or

(B) a lawyer who has a contract with OKDHS to preside over administrative hearings and issue a decision.

"Appeals Unit" means the unit established within the Legal Division which is responsible for conducting administrative hearings.

"Appeals Unit supervisor" means the person designated by the OKDHS general counsel to supervise the Appeals Unit.

"Applicant or licensee" means:

(A) an applicant for a license to operate a child care facility; or

(B) the holder of a license to operate a child care facility which has been revoked.

"Authorized representative" means a person authorized by the applicant or licensee to represent them in the hearing process.

(A) Any party may be represented by a lawyer or legal intern licensed to practice by the Supreme Court of Oklahoma.

(B) A party may be represented by a non-lawyer.

(C) If the representative is not a lawyer, OKDHS verifies the authority of the person to represent the applicant or licensee through verbal or written authorization of the applicant or licensee.

"Clear and convincing evidence" means the degree of proof which has produced in the AHO a firm belief as to the truth of the allegation sought to be established.

~~**"DHS"** means the Oklahoma Department of Human Services.~~

"Division of Child Care (DCC)" means any office in any division or unit within DCC which is responsible for the act, or failure to act, which is the subject of the hearing request.

"Hearing" means the process by which evidence is obtained and a decision made regarding the OKDHS action being protested.

"Hearings on licensing actions related to child care facilities and child placing agencies" means:

(A) the process to review ~~a~~ an OKDHS decision on denial or revocation of a license for a child care facility or child placing agency; or

(B) hearings on emergency orders to cease operation of a child care facility.

"Hearing request" means a written expression by an applicant, licensee, or authorized representative of the applicant's or licensee's desire to contest an action by OKDHS through the hearing process.

"OAC" means the Oklahoma Administrative Code, which contains the regulations promulgated by each state agency.

"Official record" means:

(A) all evidence offered for introduction at the hearing;

(B) an electronic recording of the hearing, or a transcription of the hearing; and

(C) the hearing decision.

"OKDHS" means the Oklahoma Department of Human Services.

~~**"Substantial evidence"** is evidence which shows that there is a substantial basis of facts to support the decision being appealed. Substantial evidence need not rise to the level of a preponderance of the evidence, but must be more than a scintilla of evidence.~~

340:2-5-119. Standard of review and burden of proof

(a) **Standard of review.** The administrative hearing officer (AHO) determines whether the Oklahoma Department of Human Services (OKDHS) action is supported by ~~substantial~~ clear and convincing evidence and not contrary to the applicable law.

(b) **Burden of proof.** The party who seeks to alter the status quo has the burden of proof. The burden of proof is on:

(1) an applicant to show that the applicant is eligible to receive a child care facility license;
(2) OKDHS to show that a child care facility license should be revoked; and
(3) OKDHS to show that the issuance of an emergency order was necessary to protect the health, safety, or welfare of a child receiving child care.

[OAR Docket #08-462; filed 3-27-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #08-461]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 11. Finance
Part 13. Electronic Benefit Disbursement
340:2-11-151 [NEW]
(Reference APA WF 07-33)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Parts 272, 273, and 274 of Title 7 of the Code of Federal Regulations.
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N/A
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N/A
ANALYSIS:
The revisions to Subchapter 11 of Chapter 2 create a new rule to provide an option for retailers to request an adjustment to a food benefit recipient's Electronic Benefit Transfer (EBT) account due to a system outage at the time of purchase.
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2008:

SUBCHAPTER 11. FINANCE

PART 13. ELECTRONIC BENEFIT DISBURSEMENT

340:2-11-151. Retailer adjustments for food benefits
(a) Retailers may request an adjustment to debit a recipient's Electronic Benefit Transfer (EBT) account due to a system outage at the time of purchase. An adjustment is made within 15 days of notice to the Oklahoma Department of Human Services (OKDHS) and recipient. Payment can be taken from future benefits if the recipient's account does not have enough credit to process the complete transaction per Parts 272, 273, and 274 of Title 7 of the Code of Federal Regulations.
(b) The recipient has the right to a fair hearing if the retailer adjustment is questioned.

[OAR Docket #08-461; filed 3-27-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #08-459]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 13. Contracts and Purchasing Unit
Part 3. Leasing and Space Standards [REVOKED]
340:2-13-15 through 340:2-13-22 [REVOKED]
(Reference APA WF 07-32)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Sections 250 et seq. of Title 75 of the Oklahoma Statutes.
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ANALYSIS:
The revisions to Subchapter 13 of Chapter 2 revoke obsolete rules that largely consist of internal procedures.
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2008:

SUBCHAPTER 13. CONTRACTS AND PURCHASING UNIT

PART 3. LEASING AND SPACE STANDARDS [REVOKED]

340:2-13-15. Property Management Unit [REVOKED]

~~The principal objective of the Department of Human Services' space management program is to:~~

~~(1) Obtain adequate space to satisfy personnel, furniture placement and internal circulation requirements;~~

~~(2) Obtain the most favorable occupancy rates;~~

~~(3) Obtain maximum utilization of existing public and private buildings which meet DHS space requirements;~~

~~(4) Provide uniform space allocation standards;~~

~~(5) Coordinate office and warehouse space planning; and~~

~~(6) Provide a central contact and information source between DHS and the private real estate market.~~

340:2-13-16. Definitions [REVOKED]

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

~~**"County owned space"** means space provided by County Commissioners as stated in Oklahoma Statutes.~~

~~**"Divisions, offices and units"** means organizational titles for specific programs and staff within the Department of Human Services, i.e., Field Operations, county administrators.~~

~~**"Fair rental value"** means fair rental value is the monetary amount reasonably expected to be paid for the right to the agreed use of real property as established by competition in the rental market. Fair rental value may be obtained by comparing the rental value of the property under consideration with that of comparable properties in the area in which the subject property is located, taking into consideration such things as location, relative condition of the property(s) type of construction, age, services, and any other factors which may have an influence on the rental value of the space.~~

~~**"Gross area"** means when DHS occupies space as the sole tenant. The sum of the floor areas measured from the outside faces of the exterior walls disregarding architectural setbacks or projections, cornices and pilasters, and including all levels or areas which have floor surfaces and standing headroom. Included are basements, mezzanines, lobbies, corridors, fire stairs, mechanical rooms, elevators, etc.~~

~~**"Maintenance"** means the repair or preventative upkeep of equipment, machinery, and building features or fixtures.~~

~~**"Net usable square feet"** means when DHS occupies space with other tenants. The amount of space is determined by:~~

~~(1) Computing the inside gross area of space by measuring between the normal inside finish of exterior walls, or the room side finish of fixed corridor and shaft walls, or the center of tenant separating partitions;~~

~~(2) Deductions are not made for the columns and projections enclosing the structural elements of the building; and~~

~~(3) Deducting from the gross area, including enclosing walls when applicable, the following:~~

~~(A) Restroom and lounges,~~

~~(B) Stairwells and bearing partitions,~~

~~(C) Elevator and escalator shafts,~~

~~(D) Building equipment and service areas,~~

~~(E) Entrance and all elevator lobbies,~~

~~(F) Stacks and shafts,~~

~~(G) Fixed or common use corridors, and~~

~~(H) Structural walls within leased space.~~

~~**"Office space"** means space used as work area for personnel, conference and reception areas, hearing rooms, interview rooms, etc. Minor areas used for storage of miscellaneous supplies and file cabinets within a private office or adjacent to clerical personnel are also included in office space.~~

~~**"OPA"** means the Office of Public Affairs.~~

~~**"Personnel"** means the number of persons to be located in the space. Personnel includes DHS permanent, temporary and contractual employees as well as budgeted vacancies. Employees of other agencies and organizations who are housed in the space assignment more than 60% of the time are also included in the personnel total.~~

~~**"Standard space specifications"** means those specifications developed and approved by the Office of Public Affairs and the Department of Human Services which define the building requirements in leased space.~~

~~**"State owned space"** means space to which the title is vested or will become vested pursuant to existing agreement by the State of Oklahoma.~~

~~**"Storage space"** means areas used primarily for storing furniture, fixtures, equipment, inactive files, etc. Work space for personnel located within larger storage areas are also included in storage space.~~

340:2-13-17. Legal base [REVOKED]

~~Leasing procedures and space standards are established by statutory requirements found in 56 O.S., Section 189; 74 O.S., Section 63.1, and Section 94; 61 O.S., Section 206D; and 73 O.S., Section 163.~~

340:2-13-18. General provisions [REVOKED]

~~(a) The Contracts and Facilities Division's Property Management Unit (PMU) is designated by the Director of the Department of Human Services to negotiate and administer leases and make written determinations and findings with respect to leases. The PMU will also advertise for, locate space and supervise moves.~~

~~(b) It is the policy of the Department of Human Services to house divisions and offices of the Department in state and county owned property whenever feasible. When requirements for space cannot be satisfied in these facilities, DHS may secure such space in the private sector.~~

~~(c) The State space standards will be used by DHS to facilitate planning, establish office needs, and authorize space requirements for the Agency in state and county owned buildings and all leased facilities.~~

~~(d) The Director of DHS may waive the requirements in this policy when it is in the best interest of the State, as long as it does not conflict with the Office of Public Affairs' Procedures for Leasing and Space Standards.~~

340:2-13-19. Space allocation standards [REVOKED]

~~(a) **Purpose.** The purpose of space allocation standards is to present a uniform and consistent means of assigning space required to support a specific program of the Agency.~~

~~(b) **General Provisions.**~~

~~(1) County administrators shall indicate their space needs by memo through the Field Operations Division.~~

~~(2) Divisions, units and offices shall indicate their space needs by written request to the appropriate division administrator who will submit a request to the PMU.~~

~~(3) The PMU is expected to implement the space standards for all major moves and internal space reorganization.~~

~~(4) When possible, DHS must satisfy new space requests through the assignment of vacant space available in state or county owned facilities.~~

~~(5) Unless otherwise noted, "square feet" means "net usable square feet." It represents the amount of space that will actually be usable for personnel, the placement of furniture and internal circulation areas.~~

~~(6) If the division or unit occupies a single tenancy building and the rental rate is based on gross square footage, those areas which would not be considered in the "net usable space" calculations shall not be used in calculating the Agency space requirements.~~

~~(7) The quality and the type of space actually assigned or approved by DHS may vary depending on various factors. Such factors may include, but not be limited to, functional considerations, the magnitude of contiguous space required and the configurations of available space for assignment, including economic consideration when the available space requires remodeling to conform to DHS and State space standards.~~

~~(8) The final decision concerning the allowable amount of square footage for a given space request will be made by DHS and OPA.~~

~~(c) **The Department of Human Services space standards.**~~

~~(1) The DHS space standards are the standard guidelines for estimating a division or unit's space needs and assigning space. They are intended to balance full and intensive use of the allocated space with productivity and program needs.~~

~~(2) The space standards will ordinarily not exceed the product of 150 square feet times the number of employees. This standard is not to be interpreted as an entitlement per individual employee, but rather entitlement to space allocated to the division or unit as a whole. The actual individual space allocations within the total will be made on a basis of job function and classification. The allocation for those employees which are in the office less than 60% of the time will be 70 square feet per position.~~

~~(3) The space standard allocations include work stations, circulation between work stations, and work station related support space, such as reception and office equipment areas unless specified in (d) of this Section.~~

~~(4) Space is primarily allocated according to the number of authorized positions in the division, unit or program. Project and limited term positions are normally included. Exceptions may be made for projects that will extend more than two years or reoccurring limited term positions.~~

~~(5) Future expansion needs are considered when there is a high degree of certainty about the increased expansion in the division, and where there exists a history of expansion in the division or unit. Projected positions should reflect the number of positions that can reasonably be expected to be approved, not what is desired.~~

~~(d) **Special space standards.** Special space standards are the guidelines for estimating a division's special space requirements. With appropriate documentation and justification in a division or unit's standard space request, additional square footage may be allowable if the space meets the specified criteria.~~

~~(1) Conference rooms.~~

~~(A) Conference rooms will be established only when they will be in use at least 20 hours per week. Occasional meeting areas for five or six people, areas used primarily by the operational unit without public attendance, or meeting areas in an office will not qualify as special space. (The division or unit may be required to provide documentation of the actual history of conference room usage.) Space allocation is determined on the basis of the following criteria:~~

~~(i) Average number of persons in attendance;~~

~~(ii) Frequency of meetings (average hours per week);~~

~~(iii) Availability of private office space; and~~

~~(iv) Special requirements (i.e., chalkboard, projector, screen, etc.).~~

~~(B) Allowable space for conference rooms which meet the above criteria is approximately 20 square feet per person based on the average number in attendance. It is acknowledged that these standards may be adjusted when special equipment is regularly used in a given meeting or conference setting. In addition, the methods for calculating the actual room size may~~

~~vary according to use and the number of participants or spectators.~~

~~(2) **Reception/client areas.** Most office locations require some type of reception area. However, where there is little or no client contact, the space allocated to the receptionist is sufficient. Waiting areas with chairs or a sofa for occasional visitors or staff does not qualify as special space. Allowable space is approximately 10 square feet per visitor. (This does not include the space requirements for the receptionist.) Space allocation is determined on the basis of:~~

~~(A) The average number of clients or visitors per day;~~

~~(B) Types of clients or visitors;~~

~~(C) Maximum seating requirements; and~~

~~(D) Special requirements (i.e., tables, etc.).~~

~~(3) **Classroom and training rooms.** Classrooms and training rooms are established only when they are in use a minimum of 20 hours per week. Occasional meeting space for up to six people will not qualify as special space. Allowable space will be approximately 30 square feet per person for a desk with armchair and approximately 40 square feet per person for a desk and chair. Space allocation is based on:~~

~~(A) The average number of persons in attendance;~~

~~(B) Frequency of training (average hours per week); and~~

~~(C) Special requirements.~~

~~(4) **Intake/interview rooms.** Intake/interview room space is established only when it is in use at least 25 hours per week. This space is considered special space based on frequency of use (average hours per week) and availability of private office space. Allowable space is approximately 100 square feet per individual room with the total number of qualifying rooms dependent on the demonstrated need for such space.~~

~~(5) **Libraries.** An occasional alcove or wall used for storage of books or magazines does not qualify as special space. This space should be in a physically delineated area dedicated to functions normally associated with libraries. Space requirement is based on the measurement of the shelving and number of books, plus circulation area. The following formulas may be used to estimate the amount of space required for books: seven volumes per linear foot, 50 books per foot of standard height wall shelving, or 100 books per foot of double-faced shelving.~~

~~(6) **File/central storage areas.**~~

~~(A) Ordinary clusters of file cabinets in active use or files housing routine case papers accessible by internal staff in daily operations does not qualify as special space. Space allocation will be based on the following criteria:~~

~~(i) Centralized files of material primarily from outside the operational unit;~~

~~(ii) Official personnel files maintained by a central personnel officer; and~~

~~(iii) Files housed in a distinct area separate from other files.~~

~~(B) Allowable space is approximately 12 square feet for each cabinet meeting the specified criteria.~~

~~(C) Areas for routine administrative supplies and materials will not qualify as special space for central storage area (floor to ceiling shelves). Space allocation will be based on the following criteria:~~

~~(i) Centrally stored supplies distributed by staff assigned to that function;~~

~~(ii) The supplies serve a large field work force; and~~

~~(iii) The area is separate from other work space.~~

~~(D) Allowable space is the actual measurement of the shelving plus circulation area.~~

~~(7) **Copier, reproduction and printing areas.** Areas are considered as special space if they are in a physically delineated area with staff dedicated to operating the equipment. Self service copy areas for use by staff will not qualify as special space. The allowable space will be the actual measurement of the equipment plus circulation area or the manufacturer's recommended allowance.~~

~~(8) **Mail room.** This room is considered as special space if it is in a secured area where outside mail enters and exits the building. It includes an area for sorting, wrapping, posting and other major tasks and equipment when staff is assigned to this function. The allowable space is the actual measurement of the equipment plus circulation area. Small mail sorting areas for routine internal mail does not qualify as special space.~~

~~(9) **Equipment dominated area.** This area is considered as special space if people must support the equipment. Occasional microfiche machines, work processing areas, computer terminals used by or assigned to employees as a routine part of their work does not qualify as special space. The allowable space is the actual measurement of the equipment plus circulation area or the manufacturer's recommended allowance.~~

~~(e) **Space planning.**~~

~~(1) Space allocation planning will to the fullest extent possible employ the open space concept. In most cases the elimination of internal fixed walls makes maximum use of space, is more flexible in accommodating change, facilitates better control of lighting, heating, air conditioning and ventilating, and reduces construction and maintenance costs.~~

~~(2) Private office space is provided only when there is a demonstrated functional need. When available, private office space may be provided to employees with the classification of Grade 57 or above. When DHS moves into new or remodeled space, private offices will not normally be provided to employees whose grade is below that of a 57. Exceptions to the above may be allowed when it is in the best interest of the Agency. Criteria to be considered for waiving the grade requirement include:~~

~~(A) Supervision of more than six staff;~~

~~(B) Full time intake work; and/or~~

~~(C) Office is available and not needed by anyone grade 57 or above.~~

~~(f) **Space for short-term use.** Divisions having a need for facilities for short-term use, such as conferences and testing, will utilize available state-owned or leased facilities whenever possible. PMU will make inquiries regarding availability of such space to OPA. If no suitable state-controlled facilities are available, an agency may arrange for the use of privately owned facilities for a period not to exceed 45 days. Any extensions beyond 45 days must be approved by OPA.~~

340:2-13-20. Leasing [REVOKED]

~~(a) **Purpose.** procedures is to provide the DHS with concerning acquisition methods for leasing space.~~

~~(b) **General provisions.**~~

~~(1) The PMU, in coordination with OPA, has the responsibility to act as leasing agent for all county and state offices. Division and unit staff are not authorized to directly or indirectly contact potential lessors for the purpose of making oral or written representation or commitments or agreements. Potential lessors or their agents will be referred to the PMU. It is the policy of PMU to deal only with an owner or authorized agent of an owner. Normally, the rental rate paid by DHS will not exceed the prevailing fair rental value for comparable facilities in a community.~~

~~(2) Standards for the utilization and allocation of space to divisions, offices and units have been adopted by the Commission for Human Services. These standards shall be used as a basis for all planning, leasing, or allocation of space.~~

~~(3) DHS Administration and OPA shall authorize all increases in rental rates. The PMU will represent the Agency in all negotiations with the lessor. When possible, the Agency shall lease space requiring as little renovation as possible to accommodate the needs of the division and meet required building codes and specifications.~~

~~(4) In most instances, acquisitions of privately leased space will be obtained through advertising. Exceptions may include an emergency and/or leases for nThe purpose of leasing policies andominal or no consideration, or space requirements that are under 2,500 square feet.~~

~~(5) All exceptions will be approved by the Director or Associate Director for Administration. All new, privately leased space occupied by the Agency must meet State Construction Codes and specifications as adopted by DHS and OPA.~~

~~(c) **Space request.**~~

~~(1) Requests for space will be submitted to the PMU who will assist the requesting division or office in completing the standard space request form (OPA-189-A). The form includes complete justification and information needed to evaluate staff and equipment to be housed, program functions to be performed and any other special requirements. The form must be utilized by all divisions and units where there is a need for one of the following:~~

~~(A) Increased space at current location;~~

~~(B) Decreased space at current location; or~~

~~(C) New space.~~

~~(2) The standard space request is required for space in a state, county or privately owned facility and should be submitted to the PMU 180 days prior to the anticipated occupancy date. The request shall include, but not be limited to, the following:~~

~~(A) Number of employees;~~

~~(B) Documentation regarding special requirements;~~

~~(C) Location and type of space required; and~~

~~(D) Minimum number of square feet of space required.~~

~~(3) OPA is responsible for evaluating an agency's state office request for space and shall authorize action taken on the request.~~

~~(d) **Analysis of space request.** In analyzing a division or unit's space request, seven key elements will normally be considered in determining the amount of space necessary to support the agency or program. The seven key elements are:~~

~~(1) A general justification of the need;~~

~~(2) Amount of space;~~

~~(3) Type of program;~~

~~(4) Special requirements;~~

~~(5) Type and quality of space;~~

~~(6) Location; and~~

~~(7) Availability of state or county owned space.~~

~~(e) **Acquisition of leased space.**~~

~~(1) The Department of Human Services will not enter into a lease for space in a privately owned building except upon advertisement for and receipt of competitive proposals. Exceptions to this rule are:~~

~~(A) This provision will not apply to the renewal of leases unless otherwise determined necessary;~~

~~(B) This provision will not apply to any lease for nominal or no consideration. As used herein, "nominal consideration" means consideration for $1.00 or less per year;~~

~~(C) Space needs arising due to an emergency situation or other circumstances that preclude advertising for space.~~

~~(2) Upon review and approval, the PMU will proceed with the preparation of the leasing documents. DHS, Contracts Unit will submit the lease and other required documents to OPA for final authorization and signature. DHS will never direct or authorize a potential lessor to begin remodeling or construction before the lease has been processed and an award of contract has been issued.~~

~~(f) **Solicitation.**~~

~~(1) When it is determined that an advertisement is required, PMU will prepare and cause the advertisement to be published. The cost of advertisement will be borne by the division or unit requesting the space. DHS may modify ads consistent with actual requirements but will include, as a minimum, the following:~~

~~(A) Amount of space required;~~

~~(B) General area in which space must be located;~~

~~(C) The agency name; and~~

~~(D) The name, address, and telephone number of the agency contact where proposals will be sent.~~

~~(2) Normally the advertisement will be placed in no more than two newspapers in the community where the~~

~~space is needed. The ad should be run for a minimum of two issues.~~

340:2-13-21. Lease documents [REVOKED]

~~Once space has been allocated and terms and conditions have been separated, the PMU will prepare the Standard Lease Agreement or Standard Renewal Agreement for signature and obtain all required accompanying documentation.~~

340:2-13-22. Lease renewal [REVOKED]

~~(a) DHS will begin to evaluate its space needs no less than three months prior to the expiration of a lease term. If the Agency intends to exercise a renewal option at the same terms and conditions set forth in the existing lease, a renewal lease will be prepared.~~

~~(b) Every fourth year after DHS has been at the present location over four years, a comparison of fair rental value in the community will be made. The PMU will determine if the lease rate should be renegotiated or if acquisition of new space is feasible. Relocation will be considered only if it is determined to be exceptionally advantageous to the Agency.~~

[OAR Docket #08-459; filed 3-27-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 5. ADULT PROTECTIVE SERVICES

[OAR Docket #08-463]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
340:5-1-4 through 340:5-1-6 [AMENDED]
Subchapter 3. Reports of Maltreatment of Vulnerable Adults
340:5-3-1 [AMENDED]
340:5-3-3 [AMENDED]
Subchapter 5. Investigation of Adult Protective Services Referrals
340:5-5-2 through 340:5-5-4 [AMENDED]
340:5-5-6 [AMENDED]
(Reference APA WF 07-19 and 07-30)
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ANALYSIS:
The revisions to Subchapters 1, 3, and 5 of Chapter 5 amend rules to: (1) include an additional ethical consideration for actions of Adult Protective Services (APS) specialists when referring clients for professional services; (2) amend definitions and add new definitions; (3) add clarifying language; (4) remove reference to a form; (5) expand the list of persons who are required to report maltreatment of vulnerable adults; (6) include county director responsibilities regarding reports received by a local human services center alleging maltreatment of vulnerable adults; (7) clarify that time frames for initiating investigations begin with the receipt of the report by any Oklahoma Department of Human Services (OKDHS) staff; (8) change the time frames for completion of investigative reports; (9) redirect or stop the flow of assets into an alleged perpetrators account as a type of protective services that may be provided in exploitation investigations; (10) revise the required annual reporting from quarterly to annually as stated in state statute; (11) add the responsibility of APS specialists to apply for all benefits that a client in guardianship is potentially eligible; (12) add rules for the sale of real and personal property of a vulnerable adult in the temporary guardianship of OKDHS; (13) add rules regarding the enforcement of involuntary court orders; (14) update form numbers; and (15) remove internal procedure regarding follow-up and temporary guardianship responsibilities.
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2008:

SUBCHAPTER 1. GENERAL PROVISIONS

340:5-1-4. Ethical considerations

The Adult Protective Services (APS) specialist has ethical responsibilities according to Section 10-109a of Title 43A of the Oklahoma Statutes. The APS specialist maintains professional objectivity when providing or arranging services for vulnerable adults, whether services are paid for by the vulnerable adult or from private or public funds.

(1) The APS specialist must not:

(A) handle the client's personal resources, such as bank accounts, cash, checks, notes, mortgages, trusts,

deeds, sales contracts, stocks, bonds, certificates, or other liquid assets without prior approval of the supervisor;

(B) obtain or initiate repairs, personal services, and other necessary actions to provide health care, food, or shelter to or on behalf of a vulnerable adult without prior supervisory approval. Prior written approval is not required in emergency situations where immediate action is required to protect the vulnerable adult from imminent harm or significant loss of property but all plans of this nature, along with approval, must be documented in writing in the case record as soon as possible after approval;

(C) solicit, charge, request, or accept a fee, gift, reward, or payment of any kind from individuals or staff for services rendered as a volunteer, intern, or employee;

(D) use contact with the client or any member of the client's support system for personal gain or personal relationships;

(E) after termination of any assignment, make personal contact with a former client or any member of the client's support system or use former contact with a client for personal gain;

(F) buy items from a client;

(G) engage in any employment or business interest that would constitute a conflict of interest or impair the APS specialist's ability to carry out duties in an impartial manner;

(H) give diagnostic medical or legal opinions;

(I) refer the client to just one physician, attorney, counselor, or other professional for services. The client is presented options whenever possible;

(~~I~~J) have sexual contact with clients, their relatives, next of kin, or members of their support system; and

(~~J~~K) make after hours home visits, other than those specifically approved by the supervisor.

(2) The APS specialist contacts the supervisor immediately when the client or the APS specialist is threatened or injured in the course of the investigation.

340:5-1-5. Confidentiality

(a) All records, working papers, and reports related to an Adult Protective Services (APS) investigation are confidential under Section 10-110 of Title 43A of the Oklahoma Statutes, and may be disclosed only by order of the court except under the circumstances described in (b) through (e) of this Section. Representatives of the general public, news media, or agencies not meeting one of the exceptions in (c) of this Section who request details on a specific case may be referred to the county director, area director, Family Support Services Division (FSSD), APS Unit staff, or the Oklahoma Department of Human Services (OKDHS) ~~Public Information~~ Office of Communications for a detailed explanation of OKDHS confidentiality rules.

(b) When consulting persons knowledgeable of the circumstances of an alleged victim of abuse, neglect, or exploitation, or when making other contacts as part of the investigation or service planning process, the APS specialist may disclose information necessary to ensure that the client is protected and the client's needs are met.

(c) Certain persons acting in an official capacity with regard to the APS client may review or receive information from the entire case record, including:

(1) a district attorney or employees of the district attorney's office;

(2) the attorney representing the person who is the subject of an involuntary services action;

(3) the attorney for the Oklahoma Disability Law Center, when involved in representing an APS client;

(4) staff of an Oklahoma law enforcement agency or a law enforcement agency of another state, including a state or local Medical Examiner's Office;

(5) staff of another state's APS program;

(6) physical or mental health care professionals involved in the evaluation or treatment of the vulnerable adult; and

(7) OKDHS staff who use the information in carrying out their own responsibilities.

(d) Any agency or person authorized by OKDHS to provide services to a vulnerable adult client may receive a summary of information necessary to secure or provide appropriate care for the client.

(e) The client's caretaker, legal guardian, and next of kin may receive summaries of information from an APS case record. ~~The information provided is that which is needed based on the purpose for the request for information.~~

(f) Some information from APS records may be released to employees or contractors of the State for research purposes, upon application to and approval by ~~OKDHS,~~ the FSSD~~,~~ APS Unit. While local OKDHS offices may release statistical information, no specific case information is released for research purposes unless approval is received from the FSSD~~,~~ APS Unit.

340:5-1-6. Definitions

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

"Abandonment" means the withdrawal of support or the act of deserting a vulnerable adult by a caretaker or other person responsible for the vulnerable adult's care.

"Abuse" means causing or permitting the:

(A) infliction of physical pain, injury, sexual abuse, sexual exploitation, unreasonable restraint or confinement, or mental anguish; or

(B) deprivation of nutrition, clothing, shelter, health care, or other care or services without which serious physical or mental injury is likely to occur to a vulnerable adult by a caretaker or other person providing services to a vulnerable adult.

"Activities of daily living (ADLs)" means basic self-care activities such as toileting, transfer, feeding, bathing, and dressing.

"Adult" means a person 18 years of age or older.

"APS specialist" means an Oklahoma Department of Human Services (OKDHS) worker who has successfully completed Adult Protective Services (APS) New Worker Academy or is working under the oversight of a more experienced APS specialist.

"Caretaker" means a person who is responsible for the care of or financial management for a vulnerable adult as a result of family relationship or has assumed responsibility for care of a vulnerable adult voluntarily, by contract, or by friendship; or who serves as a legally appointed guardian, limited guardian, or conservator.

"Emergency" means a situation in which a vulnerable adult is likely to suffer death or serious physical harm without immediate intervention.

"Evidence" means all documentation, photographs, interviews, observations, objects, and other information collected, observed, or otherwise obtained during the course of an investigation.

"Executive function" means the brain's ability to absorb information, interpret this information, and make decisions based upon this information.

"Exploitation" means unjust or improper use of the person or resources of a vulnerable adult for the profit or advantage of another person through undue influence, coercion, harassment, duress, deception, false representation, or false pretense.

"Financial neglect" means repeated instances by a caretaker or other person who has assumed the role of financial management of failure to use the resources available to restore or maintain the health and physical well-being of a vulnerable adult, including but not limited to:

(A) squandering or negligently mismanaging the money, property, or accounts of a vulnerable adult;

(B) refusing to pay for necessities or utilities in a timely manner; or

(C) providing substandard care to a vulnerable adult despite the availability of adequate financial resources.

"Guardian" means one of the types of guardianship specified in the Oklahoma Guardianship and Conservatorship Act, Title 30 of the Oklahoma Statutes.

(A) **General guardian.** A general guardian is a person appointed by the court to serve as the guardian of an incapacitated person to ensure that the essential requirements for the health and safety of the person are met, to manage the estate of the person, or both.

(B) **Limited guardian.** A limited guardian is a person appointed by the court to serve as the guardian of a partially incapacitated person and is authorized by the court to exercise only certain powers of a guardian over the person, or estate or financial resources of the person, or both.

(C) **Special guardian.** A special guardian is a person appointed by the court to exercise certain specified powers to alleviate a situation in which there is a threat of serious impairment to the health or safety of an incapacitated or partially incapacitated person, or a situation in which the financial resources of the person will be seriously damaged or dissipated unless immediate action is taken.

"Incapacitated adult" means a vulnerable adult whose ability to receive and evaluate information effectively or to make and to communicate responsible decisions is impaired to such an extent that the person lacks the capacity to manage his or her financial resources or to meet essential requirements for the person's mental or physical health or safety without assistance.

"Indecent exposure" means forcing or requiring a vulnerable adult to:

(A) look upon the body or private parts of another person or upon sexual acts performed in the presence of the vulnerable adult; or

(B) touch or feel the body or private parts of another person.

"Instrumental activities of daily living (IADLs)" means abilities necessary for an adult to function independently in the community, such as preparing meals, using the telephone, driving or arranging for transportation, shopping, and handling finances.

"Mandatory reporter" means any person who has reasonable cause to believe someone is suffering from abuse, neglect, or exploitation.

"Maltreatment" means abuse, neglect, self-neglect, exploitation, sexual exploitation, or verbal abuse.

"Neglect" means:

(A) failure to provide protection for a vulnerable adult who is unable to protect his or her own interest;

(B) failure to provide adequate shelter, nutrition, health care, or clothing for a vulnerable adult; or

(C) negligent acts or omissions that result in harm or unreasonable risk of harm to a vulnerable adult through action or inaction, or lack of supervision by a caretaker providing direct services.

"Power of attorney" means authority granted by a legal document authorizing a person or other entity to act for the principal, subject to the extent of the power authorized. The affidavit may be durable. If it is durable, the power of attorney has been filed at the county court house and becomes effective when the principal loses decision making abilities as defined by the document and instructions of the principal. The power is revoked upon:

(A) written revocation of the principal;

(B) incapacity of the principal unless it is a durable power of attorney;

(C) death of the principal;

(D) a termination date if specified in the document;

(E) order of the court; or

(F) the appointment of a guardian, in most cases.

"Self-neglect" means neglect brought about by a vulnerable adult's own actions or inactions which causes the vulnerable adult to fail to meet the essential requirements for physical or mental health and safety due to the vulnerable adult's lack of awareness, incompetence, or incapacity.

"Services which are necessary to aid an individual to meet essential requirements for mental or physical health

and safety" means services which include, but are not limited to the:

(A) identification of adults in need of protective services;

(B) provision of medical care for physical or mental health needs; and

(C) provision of assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from physical maltreatment, guardianship referral, outreach, and transportation necessary to secure any of such needs. This excludes taking the adult into physical custody without the adult's consent except through proper procedures for the provision of involuntary services.

"Sexual abuse" means:

(A) oral, anal, or vaginal penetration of a vulnerable adult by or through the union with the sexual organ of a caretaker or other person providing services to the vulnerable adult, or the anal or vaginal penetration of a vulnerable adult with any other object by a caretaker or other person providing services to the vulnerable adult;

(B) for the purpose of sexual gratification, the touching, feeling, or observation of the body or private parts of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult; or

(C) indecent exposure by a caretaker or other person providing services to the vulnerable adult.

"Sexual exploitation" means and includes, but is not limited to, a caretaker causing, allowing, permitting, or encouraging a vulnerable adult to engage in prostitution or in lewd, obscene, or pornographic photographing, filming, or depiction of the vulnerable adult as those acts are defined by Oklahoma law.

"Substantiated" means ~~more than 50%~~ the greater weight of the evidence collected during an APS investigation determines that maltreatment occurred and the alleged victim meets the definition of a vulnerable adult.

"Temporary guardian" means a person or other entity appointed by the court under Title 43A of the Oklahoma Statutes with authority only to consent on behalf of an incapacitated adult to the provision of protective services determined necessary to remove conditions creating an emergency need and other services approved by the court. A temporary guardian serves in that capacity only until the expiration of the order appointing him or her.

"Undue influence" means the substitution of one person's will for the true desires of another.

"Unsubstantiated" means evidence found during an APS investigation was insufficient to determine maltreatment occurred.

"Verbal abuse" means the use of words, sounds, or other communication including, but not limited to, gestures, actions, or behaviors, by a caretaker or other person providing services to a vulnerable adult that are likely to cause a reasonable person to experience humiliation, intimidation, fear, shame, or degradation.

"Vulnerable adult" means an adult who, because of physical or mental disability or other impairment, may be subject to maltreatment and is substantially impaired in his or her ability to independently:

(A) provide adequately for his or her own care or custody;

(B) manage his or her property and financial affairs effectively;

(C) meet essential requirements for mental or physical health or safety; or

(D) protect himself or herself from maltreatment without assistance. This determination is not made based on a person's eligibility for disability benefits from any source or on the impairment being permanent, but solely on the adult's reported physical or mental condition at the time an APS referral is made and the APS specialist's assessment of that condition during investigation.

SUBCHAPTER 3. REPORTS OF MALTREATMENT OF VULNERABLE ADULTS

340:5-3-1. Reporting a need for protective services

(a) **Mandatory requirement to report.** Any person having reasonable cause to believe that a vulnerable adult is suffering from abuse, neglect, or exploitation is mandated by law [Section 10-104.A of Title 43A of Oklahoma Statutes] to make a report to the Oklahoma Department of Human Services (OKDHS), the office of the district attorney in the county in which the suspected incident occurred, or local law enforcement.

(1) State law provides that any person who knowingly and willfully fails to promptly report any abuse, neglect, or exploitation is, upon conviction, guilty of a misdemeanor.

(2) Any person who willfully or recklessly makes a false report or a report without a reasonable basis is liable in a civil suit for any actual damages suffered by any person named in the report and any punitive damages set by the court or jury.

(3) Any person exercising good faith and due care in making a report of alleged abuse, neglect, or exploitation has immunity from any civil or criminal liability that might otherwise be incurred.

(4) Every person in Oklahoma is a mandatory reporter, and select groups who routinely have contact with vulnerable adults are specifically named in Oklahoma statutes, including:

(A) social workers~~,~~;

(B) physicians~~,~~;

(C) operators of emergency response vehicles~~,~~;

(D) mental health professionals~~,~~;

(E) law enforcement~~,~~;

(F) staff of domestic violence programs~~,~~;

(G) long-term care facility personnel~~,~~ including staff of:

(i) nursing facilities;

(ii) intermediate care facilities for persons with mental retardation;
(iii) assisted living facilities;
(iv) residential care facilities; and
(v) Oklahoma veteran's centers;
(H) persons entering into transactions with a caretaker or other person who has assumed the role of financial management for a vulnerable adult;
(I) staff of:
(i) residential care facilities;
(ii) group homes; and
(iii) employment settings for individuals with developmental disabilities;
(J) job coaches;
(K) community service workers;
(L) personal care assistants; and
(M) other medical professionals.

(b) **Content of the report.** The law requires that the report of alleged abuse, neglect, or exploitation of vulnerable adults include the information in (1) through (3) of this subsection. ~~Additional information which is useful in investigating a report is included on Form APS-1, Adult Protective Services Referral.~~ The minimum information required by law is:

(1) the name, ~~and~~ address, or location of the vulnerable adult;
(2) the name ~~and~~ or address of the caretaker, if any; and
(3) a description of the situation of the vulnerable adult.

(c) **Obtaining the name of the reporter.** Although the person making the report is not required by law to provide a name, address, or telephone number, such information is helpful in the event the APS specialist has further questions or needs to clarify any points of the complaint.

340:5-3-3. Reports received by the ~~county office~~ local human services center (HSC)

The local ~~Oklahoma Department of Human Services~~ HSC office is required to accept all reports alleging maltreatment of a vulnerable adult, including anonymous reports and reports made about an adult residing in a different county. County directors are responsible for ensuring compliance.

SUBCHAPTER 5. INVESTIGATION OF ADULT PROTECTIVE SERVICES REFERRALS

340:5-5-2. Initiating investigations

An Adult Protective Services (APS) investigation is initiated by a visit to the vulnerable adult who is the alleged victim (AV) at the adult's home or other place of residence.

(1) **Time frame for initiating investigations.**
(A) Investigations of referrals of maltreatment are initiated as soon as possible within three working days of the receipt of the report in the Oklahoma Department of Human Services (OKDHS), excluding weekends and official OKDHS holidays~~, of receipt of the referral by the assigned APS unit~~.
(B) In the case of an emergency situation when immediate action may be required, the investigation is initiated as soon as possible within four hours of receipt.

(2) **Denial of access to the AV.** If the APS specialist is denied entry into the residence of the AV, or is denied a private interview with the AV, ~~the Oklahoma Department of Human Services~~ OKDHS staff may petition the court for an order allowing entry or access.

340:5-5-3. Elements of an investigation

Although the investigation process may vary depending on the initial allegations and other factors, all Adult Protective Services (APS) investigations include paragraphs (1) through (10).

(1) **Notification of local law enforcement.** Local law enforcement is provided notification of all APS referrals assigned for investigation.

(2) **Efforts to locate and notify others.** APS specialists must make every reasonable effort to locate and notify the vulnerable adult's caretaker, guardian, and next of kin.

(3) **Visits to and interviews with the vulnerable adult.** Each APS investigation includes at least one visit and private interview with the vulnerable adult, and may include as many as are necessary to reach a conclusion and determine what, if any, protective services are needed.

(4) **Consultation with others.** Other people who have or can reasonably be expected to have pertinent knowledge about the alleged victim's (AV's) circumstances are interviewed during the investigation, including any alleged perpetrator of maltreatment.
(A) This consultation includes medical, psychiatric, or other evaluations as necessary to assist in the determination of a vulnerable adult's decision-making capacity and need for services.
(B) The AV's permission is not required for these contacts.

(5) **Photographs.** The APS specialist may take still photographs or video recordings to document injuries to the vulnerable adult, or conditions in the adult's residential environment which have resulted or may result in an injury or serious harm to the adult.

(6) **Other relevant data.** The APS specialist collects any data relevant to the situation being investigated, including records, to arrive at a finding on the referral. If the APS specialist is denied access to pertinent records, documentation, or other information relevant to the investigation, the Oklahoma Department of Human Services (OKDHS) may petition the court for an order allowing access.

(7) **Determining the adult's decision-making capacity.** OKDHS is mandated by Section 10-106.C of Title 43A of the Oklahoma Statutes to determine a vulnerable adult's risk and needs along with the client's capacity to consent to receive services, especially with regard to the need for involuntary services. Each investigation includes an evaluation of the vulnerable adult's decision-making capacity.

(A) Information is obtained from medical or psychiatric sources, if available, to assist in the determination. In making this determination, the APS specialist assesses and considers:

(i) the client's short and long term memory;

(ii) the client's executive functioning by their ability to plan and execute a plan;

(iii) the client's ability to recognize risk factors;

(iv) denial of problems by client or caretaker;

(v) the client's executive functioning by their ability to understand and follow directions;

(vi) indicators of affective disorders such as depression or bipolar disorder; and

(vii) indicators of substance abuse, dementia, delirium, psychosis, traumatic brain injury, uncharacteristic socially inappropriate behaviors, impaired decision-making, and other factors.

(B) The APS specialist's assessment of a client's mental capacity to consent to protective services takes into account the client's awareness of:

(i) the limitations and deficiencies in the physical environment;

(ii) the client's own physical or mental limitations;

(iii) resources available to assist in meeting the client's needs; and

(iv) the consequences to the client if nothing is done to improve the situation.

(C) If a client is deficient in all or most of the areas in (B) of this paragraph, he or she may lack the capacity to consent to protective services and it may be appropriate to petition the district court for an order authorizing the provision of needed services.

(D) If a client expresses awareness of all four areas in (B) of this paragraph, it is likely that the present circumstances are the client's choice, though in some cases a client might express awareness in these areas and still lack the capacity to consent to provision of services.

(E) If a client appears unaware of the consequences of the present situation, and an emergency exists, legal intervention is appropriate.

(8) **Evaluation to determine the need for protective services.** The evaluation consists of the APS specialist's analysis and consultation with the supervisor of all evidence gathered during the initial phases of the investigation. The evaluation includes consideration of whether:

(A) the vulnerable adult needs protective services. If so, the need for protective services is documented in a statement that includes the least restrictive services that will meet the person's needs;

(B) services that are identified as needed are available through OKDHS or in the community, and the sources and manner in which they can be provided. Options are explored with the vulnerable adult;

(C) the vulnerable adult is capable and willing to obtain services for himself or herself;

(D) the vulnerable adult can pay for needed services or is eligible for public assistance programs;

(E) a caretaker or guardian is willing to provide or agree to the provision of needed services; and

(F) the vulnerable adult desires the services.

(9) **Completion of investigative report.** ~~The~~ From the date an APS referral is received, the APS specialist~~, within:~~ completes the investigative report within 30 calendar days for self neglect referrals and 60 calendar days for referrals involving an alleged perpetrator. The APS supervisor may extend the time frame for completion of an investigation for an additional 30 calendar day period when it is in the client's best interest to do so. To complete the investigation, the APS specialist:

(A) ~~30 calendar days of the date the report is received,~~ completes necessary interviews and assessments including identification of any immediate service needs;~~ and~~

~~(B) 30 calendar days of the date the report is received when the allegation involves self-neglect:~~

(~~i~~B) completes all final documentation;

(~~ii~~C) submits a report to the local district attorney; and

(~~iii~~D) makes a determination of substantiated or unsubstantiated based on the definitions of terms in OAC 340:5-1-6~~; or~~.

~~(C) 60 calendar days of the date the report is received when the allegation involves a third party perpetrator:~~

~~(i) completes all final documentation;~~

~~(ii) submits a report to the local district attorney; and~~

~~(iii) makes a determination of substantiated or unsubstantiated based on the definitions of terms in OAC 340:5-1-6.~~

(10) **Follow-up.** The APS specialist, in consultation with the APS supervisor, is responsible for determining what follow-up is needed in each case investigated.

(A) On cases not requiring court-ordered involuntary services, follow-up needs are determined on a case-by-case basis.

~~(i) If the supervisor and APS specialist determine no follow-up is necessary, that decision and the reasons for it are documented in the case record.~~

~~(ii) If the supervisor and APS specialist determine follow-up is necessary, that decision and the reasons for it are documented in the case record, along with the plan for completing follow-up, the findings of the follow-up, and any action necessary in response to those findings.~~

~~(B) When the contact is made by phone or other means than face-to-face visit, supervisory approval of the means of contact is documented in the case record, along with the reasons justifying contact other than face-to-face.~~

(~~C~~B) For referrals that resulted in a client receiving involuntary services, OKDHS is responsible for

~~assuring~~ ensuring basic needs for safety and security are met as required by the court. The APS specialist monitors the delivery of court-ordered protective services and continues to assess the need for additional services determined by the changing needs of the client. At least one follow-up visit is made at 30 days regardless of whether OKDHS continues to hold temporary guardianship.

(i) If the client's situation is stable or improving after 30 days and OKDHS no longer holds guardianship, the case is closed.

(ii) If OKDHS continues to hold guardianship after 30 days, a follow-up visit to the client is required at least once each 30 days for the duration of the temporary guardianship.

(iii) If the client's situation is deteriorating at any time during the follow-up period, the service plan is reassessed and changed as needed with the concurrence of the court.

(iv) Follow-up visits to clients receiving involuntary services are made at least every 30 days, but may be made as often as needed to comply with APS specialist guardianship responsibilities and to monitor the client's situation.

(v) If an out-of-home placement is used as a temporary or long term solution to identified needs, the APS specialist has regular contact with the client for the duration of the court ordered temporary guardianship. The frequency of this contact is determined by the APS specialist and supervisor's determination of the specific client situation and the availability of an independent objective third party to provide follow-up and notification to the APS specialist. Visits to the client are made at least once every 30 calendar days while the client is under APS guardianship. Information from follow-up visits is documented ~~in the case record~~ and made available to the court on review of the guardianship. Follow-up visits may be made as frequently as the APS specialist and supervisor determine they are needed, based on an individual client's situation. For clients placed:

(I) in medical facilities such as geriatric psychiatric units or medical hospital for care, the worker follows-up with the client's assigned social worker;

(II) in group homes, residential care facilities, and assisted living centers, the APS specialist may contact other professionals not associated with the facility who provide treatment or services to the client for follow-up information every 30 calendar days or more often as indicated;

(III) at any facility owned or operated by OKDHS, face-to face-visits are made every 30 calendar days with interim contacts with the social work staff or more often as indicated; and

(IV) at any type of nursing home, the APS specialist visits the client, at least once every two weeks during the first month of placement to check for changes in the client's condition, such as injuries, signs of over-medication, and cognitive state. Concerns are discussed with the nursing home administrator or director of nursing, and the APS supervisor. After the first month, the APS specialist visits the client at least once every 30 calendar days, reviews the nursing home charts and incident reports, and discusses care needs with the staff and client's family, if available.

(~~D~~C) The APS specialist may determine as a result of follow-up contacts that further placement options need exploring. This may be the result of inappropriate action on the part of the provider, current information about the facility's ability to provide care for the client, or the facility's request to relocate the client. Placement alternatives are determined in accordance with this Section and approved by the supervisor, county director, and the area APS field liaison. The court appointed attorney for the client and the family is notified of the problems and alternatives that have been developed. A written report of the change of placement is submitted to the court, with a copy of the motion to the client's family and attorney of record.

(~~E~~D) Follow-up contact with clients remaining at home in temporary guardianship is made frequently with a minimum of every 30 calendar days to assure that client safety and needs are being met by the established service plan. Modifications are made as needed to the service plan as well as provision of services by providers. The quality of care and the method of contact are evaluated on a case-by-case basis depending on the individual needs of the specific client including a face-to-face visit every 30 calendar days. Reports are submitted at the request of the court or a minimum of every 30 calendar days.

(~~F~~E) In the event the client is placed in a facility out-of-county, the APS supervisor or designee immediately contacts the APS supervisor in the county of placement to notify the receiving county of the placement and that follow-up activities pursuant to this paragraph must be provided by the receiving county.

(i) The APS specialist in the county where the client is residing is the worker designated to provide follow-up services for temporary guardianship cases. ~~That APS specialist documents contacts and required information as set forth in this subparagraph and sends it to the county of jurisdiction once a month.~~

(ii) The resident county APS specialist is responsible for all issues that require written consent and other problems or concerns and acts in coordination with the APS specialist in the county of court jurisdiction for reporting to the court as required by the court order with a minimum of every

30 calendar days. ~~All actions are discussed with APS specialist in the county of court jurisdiction.~~

(iii) The APS specialists and supervisors from both counties discuss and determine the best course of action for renewals of temporary guardianships.

(I) The decision takes into account~~,~~ the client's specific situation, the family and their desires, the availability of the courts in the two counties, and the advice of the client's court appointed attorney, and the attorney(s) representing OKDHS in the matter.

(II) The area APS field liaison, ~~State Office APS~~ Family Support Services Division (FSSD) APS Unit, and attorneys for the OKDHS Legal Division are consulted as needed for assistance in determining the best course of action.

340:5-5-4. Special considerations during investigations

(a) **Referrals regarding members of Indian tribes.** Referrals are accepted for an alleged victim (AV) who is a tribal member according to the Protective Services for Vulnerable Adults Act as set forth in Sections 10-101 through 10-110 of Title 43A of the Oklahoma Statutes. The Adult Protective Services (APS) specialist provides or arranges voluntary or involuntary services as indicated for a vulnerable adult regardless of whether the adult resides on tribal land.

(b) **Referrals involving two or more counties.** If a referral involves two or more counties, as when the AV lives in one county and the alleged perpetrator (AP) in another, local APS staff from both human services centers (HSCs) are involved in the investigation.

(c) **Referrals involving Soonercare (Medicaid) fraud.** When an APS investigation indicates fraud by a provider receiving Medicaid funds, APS staff immediately notifies the Medicaid Fraud Control Unit (MFCU) in the Office of the Oklahoma Attorney General. APS cooperates with any investigation by MFCU. If MFCU declines to investigate, APS staff completes the investigation and sends a summary report to MFCU upon completion of the investigation.

(d) **Referrals involving persons and provider agency employees.** APS investigations of maltreatment of vulnerable adults may include all persons in a relationship of caretaker, regardless of organizational affiliation, except those noted in Subchapter 3 of this Chapter. Care providers who may be subject to APS investigation include, but are not limited to, home health providers, community services workers for persons with developmental disabilities, personal care assistants, adult foster homes, adult day care centers, independent living centers, residential care facilities, and assisted living centers.

(1) These agency investigations include all the elements of an APS investigation, with special emphasis placed on:

(A) interviewing agency staff and other residents or participants who may have knowledge of the reported incident;

(B) obtaining copies of applicable charts and records;

(C) reviewing medication lists and schedules;

(D) taking photographs;

(E) examining habilitation or other care plans;

(F) examining financial records and other money management documentation;

(G) reviewing time schedules and time sheets; and

(H) requesting any other information needed to complete the investigation.

(2) If assistance is needed in assessing medical issues in these cases, involvement of the OKDHS long-term care nurse may be requested.

(3) APS staff submits findings of substantiated referrals of maltreatment by persons who are personal care assistants, Medicaid personal care attendants (MPCA), and community services workers subject to the requirements of the Community Services Worker (CSW) Registry maintained by Developmental Disabilities Services Division (DDSD) pursuant to Section 1025.3 of Title 56 of the Oklahoma Statutes within three working days to the OKDHS Office of Client Advocacy for consideration of placement of the worker's name on the statewide CSW Registry. Persons whose names are on the CSW Registry must not be employed by providers for direct care services to persons with developmental disabilities or as personal care attendants (PCA) paid through the Medicaid ADvantage Waiver.

(4) For agency employees who are not subject to the CSW Registry requirements, the agency director or board is notified of any substantiated elements of the investigation. Any corrective action plan on the part of the agency becomes a part of the APS case record. If the agency fails to cooperate in addressing the substantiated elements of the investigation, APS staff notifies the licensing agency, any appropriate governing board, and the district attorney's (DA's) office of the failure to cooperate.

(e) **Referrals involving other licensed or certified persons.** APS staff sends findings to any state agency with concurrent jurisdiction over persons or issues identified in the investigation, including, where appropriate, the Oklahoma State Department of Health (OSDH), the Oklahoma Board of Nursing, and any other appropriate state licensure or certification board, agency, or registry.

(f) **Referrals alleging exploitation.** Referrals involving exploitation are complex. To assist in handling some of these referrals, the OKDHS Office of the Inspector General (OIG) may accept for investigation referrals of exploitation involving large amounts of funds or the need to access complex records regarding financial transactions. If OIG declines to investigate, the APS specialist completes the investigation. Protective services that may be provided in cases of exploitation include:

(1) changing the representative payee;

(2) freezing all assets of the client; ~~and~~

(3) petitioning the court for an order allowing access to records;

(4) redirecting or stopping the flow of client assets into the alleged perpetrators accounts; and

(5) stopping perpetrator access to the alleged victim's account(s).

(g) **Persons referred to OKDHS by the courts.** Courts are not authorized to remand criminal defendants to OKDHS based on a finding of lack of competency. Courts are authorized to refer the alleged incompetent defendant to OKDHS for consideration of voluntary assistance according to Section 1175.6b(B) of Title 22 of the Oklahoma Statutes. In order to qualify for such findings, the court must make findings described in (1) or (2) of this subsection.

(1) Referral for voluntary services occurs when the court finds that the person is incompetent for reasons other than the AV is a person requiring treatment under Title 43A of the Oklahoma Statutes and is found not to be dangerous.

(2) When a court, the DA, or the attorney for a criminal defendant notifies the APS specialist that a referral for voluntary APS services has been made, the APS specialist obtains a copy of the order from the person making the referral. If, after evaluation, it appears to the APS specialist the AV may also be developmentally disabled, the APS specialist immediately contacts the DDSD Area Intake office and requests their involvement in the process of determining what voluntary services are available. This is a joint effort between the APS specialist and the DDSD case manager.

(h) **AV receiving services from DDSD.** When an AV is receiving or may be eligible for services from DDSD, the APS specialist contacts the appropriate DDSD Area Intake office to coordinate activities to enhance the AV's safety. Section 1175.3(D)(1)(b) of Title 22 of the Oklahoma Statutes authorizes a court to call for DDSD to conduct a competency evaluation to determine whether mental retardation or other developmental disability may be involved.

(i) **Referrals involving residents of residential care facilities, assisted living facilities, and continuum of care facilities.** A copy of the final investigative report is sent to OSDH.

340:5-5-6. Provision of protective services to clients receiving APS services

(a) **Voluntary protective services.** Protective services may be provided on a voluntary basis when a vulnerable adult consents to provision of services, requests services, and is willing to allow the Adult Protective Services (APS) specialist to provide or arrange for services as authorized by Section 10-106 of Title 43A of the Oklahoma Statutes (43A O.S. § 10-106).

(b) **Payment for protective services.** The cost of providing voluntary or involuntary protective services is borne by the client if the APS specialist determines that the person is financially able to make payment or by any private or public programs for which the vulnerable adult is eligible. If a caretaker controls the person's funds and refuses to pay for necessary services, this may be construed as caretaker interference and is handled as described in ~~OAC 340:5-6(b)(3)~~ (3) of this subsection.

(1) **Payment for voluntary services.** If voluntary services are required to meet an emergency need and no other payment source is available, procedures described in ~~OAC 340:5-5-6(b)(3)~~ (3) of this subsection are followed. In cases where the services are not to meet an emergency need, the APS specialist arranges for voluntary services if:

(A) services can be provided free of charge;

(B) the client has funds and agrees to pay for the services; or

(C) there is a public or private assistance program available to pay for the services.

(2) **Payment for involuntary services.** Payment for involuntary protective services is made from the client's funds only upon order of the court. If payment is required for involuntary services, procedures described in ~~OAC 340:5-5-6(b)(3)~~ (3) of this subsection are followed if:

(A) no funds are available from the client's assets; and

(B) no private or public payment source is available.

(3) **Payment for emergency protective services.** The Oklahoma Department of Human Services (OKDHS) maintains a limited APS Emergency Fund that may be accessed only when specific criteria are met. This fund is used as a short-term measure for crisis situations until other arrangements are made.

(c) **Court-related services.** All petitions or motions filed with the court regarding a vulnerable adult require the signature of the district attorney (DA), assistant district attorney (ADA), or OKDHS Legal Division attorney.

(d) **Non-cooperation of caretaker.** When a vulnerable adult consents to receive protective services but the caretaker refuses to allow the provision of services, OKDHS may petition the court for an injunction prohibiting the caretaker from interfering with the provision of protective services in accordance with ~~OAC 340:5-5-6(e)~~ subsection (e).

(e) **Petitioning the court - order enjoining caretaker.** When the client's caretaker refuses to allow the provision of protective services to which the client has consented or otherwise interferes in the provision of services, OKDHS may petition the court for an Order to Enjoin Caretaker.

(f) **Refusal to consent to protective services.** If a vulnerable adult does not consent to the provision of needed services, or withdraws consent after it is given, the APS specialist documents the client's refusal in the case narrative or on Form ~~APS-2~~ 08AP002E, Adult Protective Services Report of Investigation. Services are terminated unless OKDHS determines that the person lacks capacity to consent. In that case, the APS specialist considers action as outlined in OAC 340:5-1-4.

(g) **Involuntary protective services.** Involuntary protective services are authorized by ~~Section~~ 43A O.S. § 10-107 ~~of Title 43A of the Oklahoma Statutes~~. If a vulnerable adult is suffering from abuse, neglect, or exploitation that presents a substantial risk of death or immediate and serious physical harm to self, or significant and unexplained depletion of the adult's estate, but lacks the capacity to consent to receive protective services and no consent can be obtained from anyone acting as caretaker, the services may be ordered by the court on an involuntary basis. The court authorizes provision of specific

services that the court finds least restrictive of the rights and liberty of the person involved.

(h) **Petitioning the court - emergency order for involuntary protective services.** OKDHS may petition the court for an order to provide emergency protective services. The petition is made in the county of the client's residence or in a county where any of the protective services are provided.

(1) If an emergency order to provide protective services is issued by the court, the order includes the appointment of a temporary guardian for the person in need of services. The temporary guardian may be either OKDHS or an interested person. The order gives the temporary guardian authority only to consent to the specified protective services on behalf of the person.

(2) The vulnerable adult, temporary guardian, or any other interested person may at any time petition the court to have the emergency order set aside or modified.

(i) **Notice to recipient.** The court sets a date to hear the case. The hearing is scheduled within five days of the date the judge signs the notice to the recipient of protective services. The vulnerable adult must receive notice 48 hours in advance of the hearing. Notice may be waived by the court in emergency cases, as described in ~~OAC 340:5-5-6(i)(2)~~ (2) of this subsection.

(1) A court order is issued showing OKDHS has petitioned the court for an order to provide protective services, and giving the date, time, and place of the hearing. The order specifies who serves the notice to the client.

(2) When petitioning the court for an order for emergency protective services, OKDHS may file a motion to waive notice if there is a risk that immediate and reasonably foreseeable death or serious physical harm to the person will result from a delay. This action is authorized by ~~Section~~ 43A O.S. § 10-108.D ~~of Title 43A of the Oklahoma Statutes~~. In response, the court may enter a 72-hour verbal order if not during regular court hours or issue a limited order during regular hours and order written notice be served on the client and attorney, if known, of a hearing to be held within that 72-hour period.

(3) If the hearing is declined, the court may either terminate the emergency temporary guardianship or enter a temporary 30-day order to provide involuntary protective services.

(j) **Emergency services responsibilities for out-of-home placements.** As a result of a substantiated investigation, ~~determination of capacity to consent, needs, and risk assessment,~~ the APS specialist develops a service plan to address the identified needs and safety issues. All out-of-home placements, including any change of placement, of clients under APS guardianship, are reported to and subject to approval of the court. Only protective services that are necessary to remove the conditions immediately threatening the life and well-being of the person are ordered. Protective services that may be authorized by an emergency court order include a change of residence only if the court gives specific approval for such action and names the facility in its order. Emergency placements may be made to nursing homes, personal medical institutions, other home placements, or other appropriate facilities. Emergency placement is not made to facilities for the acutely mentally ill.

(1) When the service plan recommends out-of-home placement for safety, health, and care needs, the APS specialist discusses this plan with the client. The client is provided with all the information necessary to make an informed decision. This may include visits to a variety of placement options arranged or facilitated by the APS specialist. The client's family, if appropriate and approved by the client, ~~are~~ is included in the planning stages. The client or family is provided with all the information available to the APS specialist regarding the quality of care provided by the identified and selected placement.

(2) Information on current quality issues of specific nursing facilities are obtained from a variety of sources to determine the appropriateness of a facility for a client receiving APS services. Placements are determined by the local APS specialist and supervisor, with approval from the county director and area APS field liaison. If a facility has any Oklahoma State Department of Health (OSDH) deficiencies at or above the actual harm level, or has had more than three substantiated Long Term Care Investigations (LTCI) reports in the past year, the placement must be approved by the Family Support Services Division (FSSD) APS ~~state program office~~ Unit.

(k) **Time limits for providing involuntary emergency protective services.** Protective services under an emergency court order other than a 72-hour order may be provided for 30 days. If the APS specialist determines protective services are required past this 30-day period, a petition is filed for continuation of involuntary protective services in accordance with (I) of this Section.

(l) **Continuation of services.** Continuation of services is authorized by ~~Section~~ 43A O.S. § 10-108.L ~~of Title 43A of the Oklahoma Statutes~~.

(1) If, upon expiration of the original 30-day order, the vulnerable adult continues to require protective services, OKDHS immediately files a motion for the court to order either or both:

(A) appointment of a guardian; and

(B) commitment of the vulnerable adult to a nursing home, personal medical institution, home placement, or other appropriate facility other than a facility for the acutely mentally ill.

(2) Before the court enters a six-month order for continued protective services, the court directs that a comprehensive evaluation of the vulnerable adult is conducted and submitted to the court within 30 days at a review hearing. The evaluation includes at least:

(A) the address where the person resides and the name of any persons or agencies presently providing care, treatment, or services;

(B) a summary of the professional treatment and services provided the person by OKDHS or other agency, if any, in connection with the problem creating the need for protective services; and

(C) a medical, psychological or psychiatric, and social evaluation and review, including recommendations for or against maintenance of partial legal rights and recommendations for placement consistent with the least restrictive environment required.

(3) The original order continues in effect until the evaluation is submitted and the hearing is held on the motion.

(4) Notice of this hearing is served as described in ~~OAC 340:5-5-6(i)~~ subsection (i).

(5) The APS specialist is responsible for assembling the required information and submitting it to the court of jurisdiction.

(6) When an investigation indicates that the vulnerable adult is likely to need assistance with his or her affairs for an extended period of time, consideration is given to identifying a relative, friend, or other person interested in the well-being of the client to serve as permanent guardian. Any person interested in the welfare of a person believed incapacitated or partially incapacitated may file a guardianship petition with the court. Procedures for filing the petition are given in ~~Section~~ 30 O.S. § 3-101 ~~of Title 30 of the Oklahoma Statutes~~, the Oklahoma Guardianship and Conservatorship Act. Interested persons are referred to the office of the district court clerk for further information and assistance.

(m) **Continuation of services for an additional period.** If after the hearing the vulnerable adult is found in need of continued protective services, the court issues an order to continue the temporary guardianship to provide specified protective services for an additional period not to exceed ~~six months~~ 180 calendar days, as authorized by ~~Section 10-108.L of Title 43A of the Oklahoma Statutes~~ 43A O.S. § 10-108. If after the 180 calendar days the vulnerable adult is still found in need of protective services, the court may renew the order every 180 days as needed.

(n) **Sale of real property.** In the event that temporary guardianship extends for more than one year or the client owns real property that must be sold in order to qualify for SoonerCare (Medicaid), OKDHS may as temporary guardian sell the real property of the vulnerable adult pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act and as directed by the OKDHS Legal Division. The fact that the vulnerable adult would be in jeopardy for receipt of SoonerCare (Medicaid) if the property was not sold shall be stated in the court order directing the sale of the real property.

(o) **Sale of personal property.** The court may issue an order authorizing OKDHS to sell personal property of a vulnerable adult when additional resources are required to pay for necessary care for the vulnerable adult.

(~~n~~p) **Responsibilities of the temporary guardian of the person or estate.** The APS specialist as temporary guardian is responsible for ensuring, to the extent possible, protection of the client residence, resources, and belongings. This includes:

(1) securing the residence, checking and gathering the mail, and feeding or arranging for care for the client's domestic animals or livestock;

(2) inventorying the client's home and personal property, using a ~~video~~ camera where available.

(A) For enhanced accountability a minimum of two people must be present during the inventory, one of whom is a law enforcement representative or non-OKDHS employee.

(B) All persons present during the inventory must sign a document attesting to the authenticity of the inventory and/or the ~~video recording~~ photographic record noting the date and their professional affiliation;

(3) establishing an account at a local financial institution and depositing any cash and uncashed checks; and

(4) securing other valuables located during the inventory. The APS specialist:

(A) arranges to have the locks changed or padlocks the residence to secure it from intrusion, if necessary; and

(B) advises all parties that no one is allowed to enter the residence unless accompanied by a representative of OKDHS, for as long as the temporary guardianship is in effect.

(~~o~~q) **Additional responsibilities of temporary guardian of the estate.** The APS specialist responsible for the temporary guardianship of the estate:

(1) opens a guardianship account in a local financial institution and regularly collects and deposits monies due to the client;

(2) submits an accounting to the court as ordered by the court, no less than ~~quarterly~~ annually;

(3) works with the court, the client's attorney, the DA, and the OKDHS Legal Division to obtain a professional accountant to manage the estate; and

(4) absent the availability of professional financial management, is responsible for regular financial activities as dictated by the client's circumstances, which include, but are not limited to, the timely:

(A) payment and documentation of the client's expenses, and other bills as they occur. ~~Cash transactions require documentation of APS supervisory approval and a signed and witnessed receipt from the recipient of the cash;~~

(B) deposit of funds received;

(C) redirection of incoming funds to the new account; and

(D) protection of existing accounts.

(~~p~~r) **Responsibility of APS specialist - involuntary protective services.** In cases where temporary guardianship of the person has been granted to OKDHS, the APS specialist provides, arranges, or facilitates the protective services ordered by the court. This may include, but is not limited to:

(1) hiring of in-home caregivers to provide in-home care and protection for the client;

(2) placement in a medical facility for treatment of health related problems;

(3) placement in a safe and anonymous location;

(4) placement in a facility for either short or long term care needs. Long term care facilities include:

(A) residential care facilities;

(B) group homes;

(C) nursing homes;

(D) intermediate care facilities for persons with mental retardation;

(E) assisted living centers;

(F) skilled nursing facilities; or

(G) ~~or~~ any other type of facility licensed to provide 24-hour care and/or services for vulnerable adults.

(5) making application or completing reviews for any state or federal programs on behalf of the vulnerable adult for which he or she is or may be eligible to receive; or

(6) making arrangements for facilities to be paid from the client's funds or resources.

(~~q~~s) **Responsibility of APS specialist - emergency out-of-home placement - ex-parte hearing.** When an emergency situation requires immediate placement, the APS specialist places the client in a licensed facility that, to the best of the APS specialist's knowledge, provides the required services needed to ameliorate the current emergency situation. Reasons for this choice are documented in the case record and provided to the court at the 72-hour hearing.

(t) **Enforcement of involuntary court orders.** To enforce an involuntary order of protective services, Section 10-108 of Title 43 A of the Oklahoma Statues provides that the court may order:

(1) forcible entry of the premises of the vulnerable adult to be protected;

(2) transportation of the vulnerable adult to another location; or

(3) the eviction of a person from any property owned, leased, or rented by the vulnerable adult and restricting that person from further access to any property of the vulnerable adult.

[OAR Docket #08-463; filed 3-27-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 10. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

[OAR Docket #08-464]

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340:10-2-1 [AMENDED]
340:10-2-4 through 340:10-2-6 [AMENDED]
340:10-2-6.1 [NEW]
340:10-2-7 through 340:10-2-8 [AMENDED]
Subchapter 3. Conditions of Eligibility - Need
Part 3. Income
340:10-3-28 [AMENDED]
Part 5. Assistance Payments
340:10-3-57 [AMENDED]
340:10-3-59 [AMENDED]
Part 7. Transitional Benefits
340:10-3-75 [AMENDED]
Subchapter 10. Conditions of Eligibility - Deprivation
340:10-10-7 [AMENDED]
Subchapter 15. Conditions of Eligibility - Citizenship and Alienage
340:10-15-1 [AMENDED]
Subchapter 20. Diversion Assistance
340:10-20-1 [AMENDED]
(Reference APA WF 07-13, 07-17 and 07-29)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 230.50, 230.52, 230.62, 230.64, and 230.65 of Title 56 of the Oklahoma Statutes (O.S.); the Deficit Reduction Act of 2005; and Parts 261.2, 261.60, 261.61 and 262.2 of Title 45 of the Code of Federal Regulations (CFR); 56 O.S. § 71; and 74 O.S. § 20j.
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Subchapter 2. Temporary Assistance for Needy Families (TANF) Work Program
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N/A
ANALYSIS:
The revisions to Subchapters 2, 3, 10, 15, and 20 of Chapter 10: (1) add a formula for determining the average weekly countable work hours for a work-eligible person who is self-employed; (2) remove language that allows short term closures by a facility to count as a holiday in calculating client Temporary Assistance for Needy Families (TANF) Work participation; (3) remove the ability to count excused absences from participation in hour increments; (4) remove community service as a TANF Work activity; (5) remove outdated requirement of passing entrance exam for placing employee in permanent status in State Work Incentive Program; (6) limit job readiness activities; (7) move information about educational services to a new Section for clarity; (8) update client TANF Work reporting responsibilities; (9) add job skills training as a TANF Work activity; (10) change language to clarify proper use of flex funds; (11) reflect the current form numbers and names; (12) update outdated language with current terminology; (13) clarify and update information regarding how income of a fugitive felon is considered; (14) remove age reference regarding payment to minors; (15) add requirement

for compliance with Soonercare citizenship and identity verification rules for continued medical; (16) update language regarding distribution of federal and/or state tax intercepts and distribution of payment to client; (17) clarify proper use of Diversion Assistance funds; (18) add a rule citation for current citizenship and alienage requirements; (19) establish rules regarding the verification of the lawful presence in the United States for persons 14 years of age or older who are applying for state or federal public benefits; and (20) update client TANF Work participation reporting responsibilities.

CONTACT PERSON:

Dena Thayer, Programs Manager, Policy Management Unit, OKDHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2008:

SUBCHAPTER 2. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) WORK PROGRAM

340:10-2-1. Work requirements

All parents or needy caretakers who apply for or receive cash assistance from the ~~State of~~ Oklahoma are required to be engaged in a work activity. The parent(s) or needy caretaker must participate in work activities for the number of hours weekly that are necessary to move that ~~individual~~ person into employment and self-sufficiency.

(1) **Work-eligible ~~individual~~ person.** A work-eligible ~~individual~~ person is defined as an adult or minor head-of-household included in the Temporary Assistance for Needy Families (TANF) assistance unit. Excluded from this definition is a parent providing care for a disabled family member living in the home who does not attend school on a full-time basis, provided the need for such care is supported by medical documentation.

(2) **Minimum hours of work activities.**

(A) All TANF applicants and recipients who meet the definition of a work-eligible ~~individual~~ person are required to participate the minimum hours of work activities.

(i) A work-eligible ~~individual is required to~~ person must participate an average of 30 hours per week, with the exception of a single custodial parent with a child under age six who must participate an average of 20 hours per week.

(ii) In a two-parent family when deprivation is based on incapacity, the non-incapacitated adult must average 30 hours per week, unless required in the home to provide care for the incapacitated work-eligible parent.

(iii) In a two-parent family when deprivation is based on unemployment, one adult must participate in work activities an average of 35 hours per week and the other adult must participate an average of 30 hours per week. If one parent is an ineligible alien, the other parent must participate an average of 35 hours per week.

(iv) To determine the average weekly countable work hours for a work-eligible person who is self-employed, the worker:

(I) determines the person's monthly countable earned self-employment income per OAC 340:10-3-32;

(II) divides that figure by the federal minimum wage; and

(III) divides that figure by 4.3 which equals weekly countable work hours.

(B) Hours missed due to holidays and a maximum of an additional ~~80 hours~~ ten days of excused absences count as hours of participation for any unpaid scheduled work activity.

(i) Federal law establishes public holidays. State holidays are ordered observed by the Governor. ~~Scheduled short-term closures by the facility the participant attends can be included as holidays.~~ If the facility where the participant is scheduled to attend is open on a designated holiday, this day is not considered a holiday for participation purposes.

(ii) Excused absences are reasonable, short-term hours missed from a scheduled work activity. There are a maximum of ~~10~~ ten days ~~or 80 hours~~ of excused absences in any 12-month period. No more than two days ~~or 16 hours~~ of excused absences in a month are counted as hours of TANF Work participation. All excused absences must be approved by the worker. An excused absence is defined as:

(I) unavailability of appropriate child care;

(II) illness or injury of the participant or a family member who lives in the household. The family member must meet the definition of a relative per OAC 340:10-9-1;

(III) scheduled doctor appointments for the participant or a family member who lives in the household;

(IV) court-required appearance by the participant;

(V) required attendance at parent and teacher conferences by the participant;

(VI) temporary unavailability of planned transportation when needed or inability to arrange for transportation;

(VII) occurrence of inclement weather that prevented the participant, and other persons similarly situated, from traveling to, or participating in, the prescribed activity;

(VIII) crisis intervention needed due to domestic violence issues;

(IX) family crisis; or

(X) required attendance of the participant for a specific appointment by another governmental entity.

(iii) To count an excused absence or holiday as hours of participation, the ~~individual~~ person must have been scheduled to participate in an allowable work activity for the period of the absence. Participation allowances are paid for approved holidays and approved excused absences.

(3) **Work activities.** Work activities are defined as core and non-core and must be scheduled, structured, and supervised. TANF Work participants are placed in core work activities when appropriate.

(A) Core work activities are:

(i) unsubsidized employment that is full-time or part-time employment in the public or private sector that is not subsidized by TANF or any other public program;

(ii) subsidized private sector employment that is employment in the private sector for which the employer receives a subsidy from TANF or other public funds to offset some or all of the wages and costs of employing a recipient;

(iii) subsidized public sector employment that is employment in the public sector for which the employer receives a subsidy from TANF or other public funds to offset some or all of the wages and costs of employing a recipient;

(iv) Work Experience Program (WEP) that is a work activity that provides ~~an individual~~ a person with an opportunity to acquire general skills, training, knowledge, and work habits necessary to obtain employment;

(v) on-the-job training that is training in the public or private sector that a paid employee receives while he or she is engaged in productive work and that provides knowledge and skills essential to the full and adequate performance of the job;

(vi) job search that is the act of seeking or obtaining employment and job readiness that prepares the person to seek or obtain employment, and includes life skills training, substance abuse treatment, mental health treatment, or rehabilitation activities for those who are otherwise employable; and

~~(vii) community services that are structured programs in which TANF recipients perform work for the direct benefit of the community under the auspices of public or non-profit organizations; and~~

(~~viii~~vii) vocational training, not to exceed 12 months, that are organized educational programs directly related to the preparation of ~~individuals~~ persons for employment in current or emerging occupations requiring training other than a baccalaureate or advanced degree.

(B) Non-core work activities are:

(i) job skills training directly related to employment that is training or education for job skills required by an employer to provide ~~an individual~~ a person with the ability to obtain employment or to advance or adapt to the changing demands of the workplace;

(ii) education directly related to employment, in the case of a recipient who has not received a high school equivalency, that is education related to a specific occupation, job, or job offer; and

(iii) satisfactory school attendance at a secondary school or in a course of study leading to a General Educational Development (GED) certificate, in the case of a recipient who has not completed secondary school or received such a certificate, that is regular attendance with the requirements of the secondary school, or in a course of study leading to a GED certificate.

(4) **Limitations and special rules.** A single custodial parent who has:

(A) not attained 20 years of age and has not completed high school is determined to be in a work activity for the month if the recipient maintains satisfactory attendance at a secondary school or equivalent during the month; or

(B) a child under the age of four months is not required to participate in a work activity. The recipient can use this special rule for a lifetime limit not to exceed 12 months.

340:10-2-4. Employment

(a) **Applicability.** Temporary Assistance for Needy Families (TANF) Work activities are designed to assist the participant in obtaining employment to achieve economic self-sufficiency. Work allows participants to enhance their self-esteem and to become more independent. Every effort is made to assist participants in securing jobs which provide financial security and opportunities for advancement. The appropriate employment criteria for subsidized and unsubsidized employment are included in paragraph (1) through (5) of this subsection.

(1) Appropriate employment may be temporary, permanent, full-time, part-time, or seasonal work, as long as the daily and weekly hours of employment do not exceed those customary to the occupation.

(2) The wage must meet or exceed the federal or state minimum wage laws or the prevailing rate for similar employment, whichever is applicable. The state law applies when federal law does not cover the job.

(3) A participant is not required to accept employment if the position offered is vacant due to a strike, lockout, or other bona fide labor dispute.

(4) A participant is not required to work for an employer if this is contrary to the conditions of membership in the union governing that occupation. Employment not governed by the rules of the union to which the participant belongs may be appropriate.

(5) A participant is not required to accept employment that results in the net loss of income.

(b) **Unsubsidized employment.** The State Work Incentive Program and any employment for which the employer does not

receive reimbursement for any portion of the wages paid are examples of unsubsidized employment.

(1) **State Work Incentive Program.** The State Work Incentive Program is designed to assist in employing TANF participants into entry level positions in all branches of state government. Oklahoma Department of Human Services (OKDHS), in cooperation with other state agencies and the Office of Personnel Management, coordinates job placements for those TANF participants who are referred for the program by Form ~~TW-23~~ 08TW023E, State Work Incentive Referral. Employment of eligible participants can be considered for positions of unclassified status for a two year period in a full-time or part-time capacity. These positions are not included within any limitation on full-time equivalent employee positions for any agency. Participants hired under this program are eligible for leave and other benefits that are available to other state employees, subject to other eligibility requirements, and may be reassigned or promoted while they are in the program. Participants hired are exempt from probationary hiring procedures. They can be considered for conversion to the permanent classified status after two years of continuous participation in the program. Requirements for placing employees in permanent status include:

(A) completing satisfactory performance ratings which are conducted during employment; and

(B) having possession of the minimum requirements stated in the job specifications~~; and~~

~~(C) passing the required entrance examination for the applicable job specification~~.

(2) **Other unsubsidized employment.** Unsubsidized employment includes any employment in which a participant is hired by a private or public employer and there is no reimbursement of any portion of the wages paid to the recipient.

(c) **Subsidized employment.** The Work Supplementation Program (WSP), on-the-job training (OJT), and Supported Transitional Employment Program (STEP) are examples of subsidized employment. The employment criteria in subsection (a) apply.

(1) **WSP.** WSP is a subsidized employment opportunity through which a TANF participant is hired in full-time employment with OKDHS reimbursing the employer for wages paid at a maximum of $250 per month for up to six months. Public agencies, nonprofit private agencies, and private employers are eligible to participate. Payments to employers and supplemental payments to WSP participants are made from a wage pool created by diversion of the TANF participant's cash assistance. State agencies expressing an interest in participating in the program are informed that the $250 reimbursement cannot be used to claim matching federal funds. If, for any reason in any given month, a WSP participant is paid less than the amount of his or her cash assistance at the time of entry into the program, the WSP participant will receive a supplemental check. WSP participants are entitled to all benefits from the employer which are available to other employees. Participation is limited to one adult per assistance unit and to a six-month period during the lifetime of the participant. The six-month period may or may not be consecutive or with the same employer. Participants are assigned based on their employability plan and the availability of appropriate and willing employers. The employer retains the satisfactory WSP participant on a permanent basis following the contract period.

(A) **Participant requirements.** TANF participants must:

(i) be included in a cash assistance unit;

(ii) be available for immediate employment;

(iii) have participated in Job Search; and

(iv) be assigned to a job at a salary exceeding their cash assistance.

(B) **Position requirements.** Positions must be permanent, not less than 30 hours per week, and pay at least 65 cents above the federal minimum wage. Tips are not considered part of the wages. All contracts must conform to the Equal Employment Opportunity Commission and fair employment practices, for example, nondiscrimination regarding age, race, sex, national origin, or disability. Contracts are not written for positions:

(i) when there is a strike, lockout, or the contract would cause displacement of other employees;

(ii) that involve commission sales when the federal minimum wage is not guaranteed; or

(iii) that are casual, intermittent, or seasonal labor.

(C) **Recruitment of employers.** The employer can be asked to identify potential positions during the initial interview to facilitate contract negotiations and match TANF participants with employers.

(i) The program explanation emphasizes that employers are expected to retain the WSP participant in full-time employment unless there is good cause for the dismissal. Employers who fail to continue the successful WSP participant's employment without good cause are not granted subsequent contracts. Good cause reasons for dismissal are:

(I) lay-off due to economic reasons which result in a reduction in force;

(II) the employee is frequently absent from work or engages in disruptive or inappropriate behavior; or

(III) the employee is unable to perform at an acceptable skill level.

(ii) Before new or additional contracts are written with an employer, WSP employees or other employees in lay-off status must be recalled.

(iii) ~~The county~~ Human services center (HSC) staff has the responsibility for ensuring the employer is complying with the contract.

(D) **WSP placements.** The worker arranges interviews between participants and potential employers.

WSP participants may begin employment any time during the month. The employer is informed that reimbursement begins the first month after the cash assistance is diverted to the wage pool.

(i) Following the employer's agreement to participate and the employer's selection of a TANF participant, the worker negotiates the contract with the employer. Negotiation must include the beginning date of employment, the salary the employee will be paid, and the number of months the subsidy will be received.

(ii) Upon receipt of the contract, the county director reviews it for completeness and, if approved, signs and dates the contract. The worker delivers the employer's copy of the contract with a supply of Form ~~TW-18~~ 08TW018E, Work Supplementation Program Invoice, and a copy of the instructions for the form. The worker contacts the participant and Form ~~TW-6~~ 08TW006E, Work Supplementation Program Participant Agreement, is completed in duplicate and signed by the worker and participant.

(iii) If a contract is not approved, a letter is mailed to the employer explaining the reason for the disapproval. The participant is notified that the contract was not approved and that a placement will be negotiated with a new employer.

(E) **Program procedures.** The procedures for programs listed in unit (i) through (iv) of this subparagraph are used.

(i) **Cash assistance.** Under WSP, eligibility for cash assistance is frozen. During the period of participation, the cash assistance unit cannot be determined ineligible.

(ii) **Medical ~~services~~ benefits.** WSP participants continue to be eligible for medical ~~services~~ benefits unless found ineligible for a reason other than earned income.

(iii) **Food ~~stamp~~ benefits.** WSP participants may be eligible for food ~~stamp~~ benefits. Eligibility for food ~~stamp~~ benefits is determined based on OAC 340:50-11-20.

(iv) **Child care.** Child care plans must be explored with each WSP participant. When purchased child care services are required, the participant's earnings are considered income, and family share co-payments are computed in accordance with OKDHS Appendix ~~C-4~~ 08AX005E, Child Care ~~Eligibility/Rates Schedule~~ Eligibility/Co-payment Chart.

(F) **Wage pool payments.** Under WSP, the diversion of the cash assistance creates a wage pool from which payments are made to employers and cash assistance supplemental payments are issued to WSP participants.

(i) **Payment of employers.** Employers are eligible for reimbursement of the first $250 of the gross wages paid to each WSP participant. Payment to the employer is made the month following the month the cash assistance is diverted to the wage pool. Employers file for reimbursement by submitting Form ~~TW-18~~ 08TW018E to the ~~county office~~ HSC at the first of the month. When a business changes ownership, the WSP contract transfers with the business. When change of ownership occurs mid-month, the original owner maintains the right to a claim for reimbursement for that month.

(ii) **Supplemental payments to WSP participants.** The Family Support Services Division (FSSD) issues supplemental payments for months in which income shown on Form ~~TW-18~~ 08TW018E is less than the amount of the WSP participant's cash assistance prior to entering the program.

(G) **Terminations.** The closing date of the authorization is the last day of employment under the contract. When employment ends prior to the end of the contract, the authorization must be closed prior to the next deadline for cash assistance changes.

(2) **OJT.** OJT is subsidized employment in which a participant is hired by a private or public employer and, while engaged in productive work, receives training that provides knowledge or skills essential to the full performance of that job. During the OJT period the employer receives reimbursement for a portion of the wages paid to the employee.

(A) Participants who have successfully completed the Work Experience Program, have a recent history of employment, or who have been through a job readiness activity are the primary candidates for OJT referral.

(B) Income from OJT is considered as any other earned income. Transitional child care and medical benefits are explained to the participant at the time of entry into OJT.

(3) **STEP.** STEP is a subsidized employment program which provides comprehensive support services that lead to permanent employment placements for TANF participants. These services are contracted with specified vendors who provide temporary paid work experience to program participants in a supportive work environment. When the participant is accepted into the program, his or her TANF benefit remains active with no cash benefit issued. If eligible, the participant continues to receive other program benefits.

(d) **Work Opportunity Tax Credit (WOTC).** The WOTC law permits for-profit employers to take a credit on their federal income tax when workers from certain groups are hired. The WOTC is equal to 40% of the first year wages up to $6,000. To claim the credit, the employee must be retained at least 180 days or work at least 400 hours.

(1) WOTC is available to employers for workers hired from targeted groups. The targeted groups are:

(A) cash assistance recipients who have received assistance for nine months out of the last 18 months;
(B) qualified veterans;
(C) qualified ex-felons;
(D) high-risk youths;
(E) vocational rehabilitation referrals;
(F) qualified summer youth employees;
(G) qualified food stamp recipients; and
(H) qualified recipients of Supplemental Security Income (SSI).

(2) Through an agreement with the Oklahoma Employment Security Commission, OKDHS issues WOTC conditional certification forms for recipients of OKDHS benefits.

(3) The Conditional Certificate, Form ETA-9062, and a letter from the worker stating the number of months the participant has received OKDHS benefits must be given to the participant to present to the employer on or before the first day of employment. An explanation is given to the participant about the purpose of the form and that the tax credit may help the participant get a job.

340:10-2-5. Job search activities

The primary objective of all job search activities is for applicants and recipients of Temporary Assistance for Needy Families (TANF) to obtain employment through personal contacts with employers. The worker and the individual jointly determine the number of employer contacts based on availability of child care, financial resources, jobs in the community, skills and abilities, and any other factors which affect or influence the individual's ability to obtain employment.

(1) An employer contact is defined as a face-to-face interview with an employer, the completion and return of any application to an employer, or the completion of tests required for employment with the state, local, or federal government. Referrals to employers are made on Form 08TW011E, ~~Referral to~~ Employment Referral. The individual records employer contacts on Form 08TW010E, Employer Contact List.

(2) Job search is defined as the individual's job seeking efforts. Individuals in job search activities are eligible for participant allowances and day care for the time they are actively looking for a job or in a group activity.

(A) The individual is given Form 08TW013E, TANF Time and Progress Report, to complete and return to the worker by the time frame shown on the form.

(i) Additional job search may be required as a part of another work activity if it would improve the individual's employment prospects.

(ii) The number of employer contacts to be made each week is included in the employability plan.

(B) If the individual has been unsuccessful in obtaining a job after a reasonable amount of time, the worker and individual review the employability plan to determine if another activity is more appropriate.

(C) The maximum amount of time spent in job search and job readiness activities cannot exceed 12 weeks within a federal fiscal year for any individual.

340:10-2-6. Job readiness

Job readiness activities help prepare participants for work by ensuring that participants are familiar with general workplace expectations and exhibit work behavior and attitudes necessary to compete successfully in the labor market.

(1) **Orientation.** Participants are referred to orientation as the need is identified on Form 08TW002E, TANF Work/Personal Responsibility Agreement. Orientation consists of individual or group meetings designed to present information about:

(A) self-esteem building;
(B) activities and services available through the Temporary Assistance for Needy Families (TANF) Program;
(C) the Oklahoma Department of Human Service (OKDHS) policies; and
(D) the employment process, including job applications, interviewing, goal-setting, and managing home and work.

(2) **Counseling~~,~~ or treatment~~, or crisis intervention~~.** The worker assists participants who have barriers that prevent them from obtaining or retaining a job by meeting with the participant and appropriate local partners to determine available resources to overcome barriers. Referrals may include counseling or treatment for~~:~~

~~(A)~~ substance abuse~~, medical needs,~~ or mental health problems~~;~~
~~(B) domestic violence; and~~
~~(C) other crisis intervention~~.

~~(3) **Other activities.** TANF participants may be referred to other agencies and organizations for group activities. The worker, with input from the service provider, decides the appropriate number of hours the participant is capable of participating in other activities. Individual or group meetings may be held as necessary to address any other needs of the participants. Topics which can be successfully addressed include:~~

~~(A) training available from other agencies;~~
~~(B) financial aid for education or training;~~
~~(C) career planning for youth;~~
~~(D) Work Experience Program participation requirements and benefits; and~~
~~(E) local labor market information.~~

~~(4) **Educational services.** Educational services to enhance the participant's potential for employment must be made available. Assignment is based on the criteria listed in (A) through (F) of this paragraph.~~

~~(A) Custodial parent participants under 20 years of age without a high school diploma are required to participate in educational activities directed toward the attainment of a high school diploma or its equivalent. These individuals may be excused from high school attendance or courses designed to lead to a General Educational Development (GED) certificate~~

~~if the employability plan includes an alternative, such as basic education or English as a second language (ESL).~~

~~(B) Participants age 20 or older that have not completed high school can participate in a basic or remedial education program.~~

~~(C) Assignment to remedial education services is appropriate for participants who read and write below high school level, even if they have a high school diploma or GED certificate. Basic and remedial education includes Adult Basic Education (ABE) classes, GED classes, Certificate of High School Equivalency literacy classes, tutoring, or remedial reading classes.~~

~~(D) Participants lacking proficiency in understanding, speaking, reading, or writing the English language are assigned to ESL classes.~~

~~(E) Participants already in attendance at an institution of higher education are considered appropriately assigned if the participant cooperates in the assessment process and development of an appropriate employability plan. However, the participant is required to participate the minimum number of hours in an activity listed in OAC 340:10-2-1.~~

~~(F) The maximum amount of time spent in job search and job readiness activities cannot exceed 12 weeks within a federal fiscal year for any individual.~~

340:10-2-6.1. Educational services

Educational services to enhance the participant's potential for employment must be made available. Assignment is based on the criteria listed in (1) through (6) of this paragraph.

(1) Custodial parent participants under 20 years of age without a high school diploma are required to participate in educational activities directed toward the attainment of a high school diploma or its equivalent. These persons may be excused from high school attendance or courses designed to lead to a General Educational Development (GED) certificate if the employability plan includes an alternative, such as basic education or English as a second language (ESL).

(2) Participants age 20 or older that have not completed high school may participate in a basic or remedial education program.

(3) Assignment to remedial education services is appropriate for participants who read and write below high school level, even if they have a high school diploma or GED certificate. Basic and remedial education includes:

(A) Adult Basic Education (ABE) classes;

(B) GED classes;

(C) Certificate of High School Equivalency;

(D) literacy classes;

(E) tutoring; or

(F) remedial reading classes.

(4) Participants lacking proficiency in understanding, speaking, reading, or writing the English language are assigned to ESL classes.

(5) Participants already in attendance at an institution of higher education are considered appropriately assigned if the participant cooperates in the assessment process and development of an appropriate employability plan. However, the participant is required to participate the minimum number of hours in an activity listed in OAC 340:10-2-1.

(6) The maximum amount of time spent in job search and job readiness activities cannot exceed 12 weeks within a federal fiscal year for any person.

340:10-2-7. Training

(a) **Scope.** Job skills training includes vocational training and hands-on work experience to develop technical skills, knowledge, and abilities in specific occupational areas. All training programs must include qualitative measures, such as competency gains or proficiency levels, to evaluate a participant's progress and reasonable time limits for completion. Referrals are made to appropriate training facilities on Form 08TW003E, Interagency Referral and Information.

(b) **Assignments.** Any training to which the participant is assigned must meet the criteria in (1) through (4) of this subsection.

(1) The hours of any training activity are governed by the training facility but must not exceed 40 hours per week.

(2) The training is preparation for a job which meets the criteria for appropriate employment.

(3) The quality and type of training must meet local employers' requirements so participants are in a competitive position with the local labor market.

(4) Training is related to in-demand occupations which are likely to become available in Oklahoma.

(c) **Work Experience Program (WEP).** The purpose of WEP is to provide skill training and work enhancement to Temporary Assistance for Needy Families (TANF) participants while providing a useful public service that will enable them to move toward self-sufficiency and obtain unsubsidized employment following completion of the placement.

(1) **Benefits.** Benefits of the program to participants include an opportunity to establish a work history and earn a recommendation from an employer. Participants also learn to balance the demands of home and work, gain confidence by performing in a job setting, brush-up skills already acquired, learn marketable skills on-the-job, and determine interest and aptitude for a particular type of work by doing the job.

(2) **WEP assignments.** WEP assignments are approved for an initial period of ~~three months~~ 90 calendar days.

(A) No salary is paid.

(B) With respect to injuries incurred during working hours in WEP, federal law requires medical coverage be offered under either state workers' compensation law or by the Oklahoma Department of Human Services (OKDHS). Oklahoma workers' compensation law does not cover WEP participants. Medical coverage is provided by the SoonerCare (Medicaid) Program.

(3) **WEP referrals.** Participants are referred to WEP slots based on their employability plan. Assignment to a

WEP position is coordinated between the participant and worker. Based on the employability plan, the worker~~,~~:

(A) determines which facility best meets the participant's needs~~,~~;

(B) arranges for an interview between the facility and the participant~~,~~; and

(C) notifies the participant of the place, time, and interviewer's name.

(4) **WEP facilities.** Facilities selected for WEP training must be capable of providing employment and have an apparent intent to hire, or be able to provide quality training. Training facilities are solicited by OKDHS staff or a contracted entity who has agreed to assist with job development and placement including WEP. Local job market conditions, opportunities for employment following completion of WEP participation as well as the ability of the facility to provide the necessary supervision and training are criteria used when soliciting a facility.

(A) Training slots are developed which meet the employment needs of the participant as determined by the employability plan. When a facility agrees to participate in WEP, the representative of the facility is requested to provide:

(i) a written description of the type of activities the participant will be involved in~~,~~;

(ii) the number of participants the facility can accept~~,~~;

(iii) the hours of participation~~,~~; and

(iv) any special requirements.

(B) There are two types of WEP training facilities, WEP-Nonprofit (WEP-NP) and WEP-For-Profit (WEP-FP).

(i) WEP-NP placement is approved for public and private nonprofit and not-for-profit agencies, organizations, or businesses. When a participant requires additional training, the worker may approve a 60-day extension. Extensions are not granted when the primary purpose is to provide additional help to the facility. The criteria listed in subunit (I) through (VII) of this subsection are used as a guide in determining the appropriateness of requesting an extension beyond the initial three-month period.

(I) The participant needs the additional time for skills to be acquired to meet minimum hiring requirements.

(II) The participant demonstrates a willingness to learn, but needs additional training, including the development of new skills, to be competitive in the labor market.

(III) The facility has agreed to hire the participant, but will not have funds available or a job opening until a specific date.

(IV) The facility has an opening in an area different from the one the participant was trained in and has agreed to hire the participant if additional time is granted for the additional training.

(V) The participant has shown improvement in all areas, but needs additional socialization skills and improved behavior patterns in a work setting.

(VI) The participant has missed more than two weeks of training due to illness or the illness of a household member.

(VII) There are extenuating circumstances which prevented the participant from receiving full benefit of the training.

(ii) WEP-FP is approved for businesses or entities that operate for profit. Only one WEP-FP placement is allowed per 25 full-time employees in a for-profit business or entity. The criteria in subunit (I) through (II) of this subsection must be in effect prior to a WEP-FP placement.

(I) The placement matches the participant's employability plan and the career path chosen by the participant.

(II) The employer has committed to hire the participant on or before the completion of the three month placement.

(5) **WEP procedures.** Upon approval by the county director, the worker contacts the WEP facility to complete Form 08TW015E, Work Experience Program - Nonprofit Training Agreement, or Form 08TW115E, Work Experience Program - For- Profit Training Agreement.

(A) The worker instructs the facility representative or the training supervisor regarding the purpose and use of Form 08TW013E, Time and Progress Report.

(B) It is the participant's responsibility to complete Form 08TW013E~~, secure the signature of the facility director or supervisor on Part III of Form 08TW013E, and return the form to the local human services center (HSC) by the fifth day of each month~~ and submit it to the worker by the time frame shown on the form.

(C) Approved training slots that have not been utilized within a six-month period are reviewed for appropriateness. If the position is no longer feasible, ~~the county~~ human services center (HSC) staff sends a letter to the facility stating the WEP slot is no longer active and may be re-evaluated at the facility's request.

(6) **Non-cooperation by WEP facility.** When the worker obtains information ~~is obtained~~ that the facility is violating the terms and conditions of Form 08TW015E, Form 08TW115E, or that participants are being treated unfairly, the county director is informed immediately. The nature of the allegations guides the necessary action which may include:

(A) suspension of subsequent assignments at the facility;

(B) immediate removal of current participants; or

(C) termination of the agreement.

(7) **Notification to participant and facility.** Ten calendar days prior to the anticipated WEP completion date, or at any time the participant becomes ineligible for WEP, the worker notifies the participant by letter or telephone.

The worker notifies the facility by letter or by telephone five calendar days prior to the termination. When a participant has been referred to WEP and an appropriate training slot cannot be provided, the worker notifies the participant of this decision.

(8) **Changes in placements and subsequent placements.** When the facility, worker, and participant determine that placement in a different facility is more beneficial, the worker locates a new facility and arranges an interview for the participant. When the participant fails to secure employment following successful completion of WEP training, a conference is held with the participant, worker, and supervisor to determine whether a second training placement might be beneficial. The worker reviews the employability plan ~~is reviewed~~ prior to allowing a participant to re-enter WEP training. Consideration is given to reassignment to job search or another appropriate work activity. In making this decision, consideration must be given to the:

(A) participant's ability to secure and maintain full-time employment;

(B) opportunities for employment in the new field and in the area in which the participant received training;

(C) participant's efforts to secure employment; and

(D) length of time between training assignments.

(d) **Job Corps nonresident training program (Job Corps II).** Oklahoma's four Job Corps centers provide a nonresident Job Corps program to TANF participants who can commute to their sites. Participants referred must be ages 16 through 24. Referrals are made by the worker completing Form ~~08MP007E~~ 08MP013E, Information/Referral - Social Services. It is the responsibility of the worker to coordinate with the Job Corps center and arrange for child care.

(1) By special agreement with the Job Corps centers, Job Corps II students are provided Job Corps participant training allowances designed to meet training costs not covered by the TANF cash assistance. These allowances are not considered as income.

(2) The worker coordinates with the centers and other designated agencies, such as Oklahoma Employment Security Commission (OESC) and Workforce Investment Act (WIA), to ensure Job Corps II students leaving the center are placed in an appropriate work activity. When a Job Corps II student leaves the center, the worker meets with the Job Corps II student to make immediate plans for further implementation of the employability plan.

(e) **Vocational training.** Vocational training other than that described in subsection (f) of this Section include, but are not limited to, practicum placements, internships, or proprietary schools and are considered as work activities.

(f) **Special programs and demonstration efforts with other agencies.** OKDHS may enter into special education, training, or employment efforts with federal, state, and local governments, and private for-profit, private not-for-profit organizations, and agencies. When this occurs, the ~~counties~~ HSCs involved are expected to comply with the terms of those agreements.

(g) **~~Community service~~ Job skills training.** ~~Community service programs are structured programs in which the TANF participants perform work for the direct benefit of the community under the guidance of a public or non-profit organization.~~ Training that is directly related to employment for job skills required by an employer to provide a person with the ability to obtain employment or to advance or adapt to the changing demands of the workplace.

340:10-2-8. Temporary Assistance for Needy Families (TANF) Work support services

(a) **Scope.** The worker provides or arranges payments and services for the participant to ensure successful completion of his or her employability plan to become self-supporting.

(1) Payments are authorized for items or services directly related to employment as an outcome.

(2) When support services are available and part of the employability plan, the participant's failure to cooperate in obtaining the support services constitutes a failure to participate in the TANF Work program.

(3) Items and services covered by the participant's medical card are not paid for by the support service fund.

(4) The only support services available to an applicant are the participant allowance and work activity payment.

(5) Payments are not authorized for reimbursement of expenses already paid by client or others.

(b) **Flexible funds.** The intent of flexible funds is to provide a participant with the necessary support services needed to accomplish his or her employment goals.

(1) Flexible funds are not available to the applicant.

(2) To be eligible for flexible funds, the participant must:

(A) otherwise be ready to participate in a required work activity for the minimum number of hours~~,~~;

(B) have a guaranteed offer of employment~~,~~; or

(C) be employed.

(3) Payments for the services through flexible funds are not an automatic entitlement to the participant.

(4) Flexible funds are not used for fines including traffic fines or any cost related to a criminal offense such as legal fees or court costs.

(5) ~~The county~~ Human services center (HSC) staff has final authority to determine authorizations.

(6) One-time payments of specific services are allowed after the service is rendered.

(7) Ongoing maintenance payments are not allowed.

(8) Relatives of the client are not eligible for payment. See OAC 340:10-9-1 for degree of relationship.

(c) **Other support services.**

(1) **Work activity payments.** To be eligible for the work activity payment, the ~~individual~~ person must be ready to participate in or be in a required work activity and in need of a small amount of cash to purchase items such as a tank of gas, or health, beauty, or personal items. The maximum amount approved cannot exceed $40 per month.

(2) **Participant allowances.** Allowances, up to a maximum of $10 for each day, are made to participants in

assigned work activities which are scheduled, structured, and supervised.

(A) Lunch hours and travel time are not included as actual hours of attendance.

(B) For persons in Job Search, travel time between job interviews and job applications is included as actual hours of attendance.

(C) The participant makes appropriate daily entries on Form ~~TW-13~~ 08TW013E, Time and Progress Report, to document actual hours in attendance and submits it to the worker by the time frame shown on the form.

(D) The daily allowance paid is:

(~~A~~i) $7 each day when the work activity equals four hours or less; or

(~~B~~ii) $10 each day when the work activity equals more than four hours.

(3) **Oklahoma State Bureau of Investigations (OSBI) background checks.** OSBI background checks may be requested for a participant who is placed in job skills training that requires an OSBI background check as a prerequisite for employment. The job skills training can include vocational training, hands-on work experience, or public or private sector work experience. The participant is advised of the requirement and Form ~~ADM-60~~ 08AD060E, Request for Release of Information, is completed.

(4) **Child care.** Child care arrangements are made for each child(ren) in the home who is under age 13, mentally or physically incapable of self care, or under court supervision. The plans for child care are included on Form ~~TW-2~~ 08TW002E, TANF Work/Personal Responsibility Agreement. When the ~~individual~~ person begins active participation in TANF Work activities, child care services are documented.

(5) **Transportation contracts.** Transportation contracts are initiated to provide transportation for TANF recipients who have no means of transportation to access required TANF Work training activities. To initiate a transportation contract, HSC staff contact the Family Support Services Division TANF Section.

(6) **Disability Advocacy Program (DAP).** DAP is available to assist a TANF Work participant or a child(ren) receiving a TANF benefit, who has an application for disability pending with the Social Security Administration (SSA) or who the Oklahoma Department of Human Services (OKDHS) determines has a potentially meritorious claim for such benefits.

(A) ~~A~~ The worker makes a referral ~~is made~~ to the OKDHS contracted law firm to assist the recipient(s) with the:

(i) application~~,~~;

(ii) reconsideration~~,~~;

(iii) Administrative Law Judge hearing~~,~~; and

(iv) review by the SSA Appeals Council.

(B) The evaluation of merit determines if the appropriate SSA test for disability would be met if evidence was available to prove all conditions claimed by the TANF recipient. If the evaluation of merit determines there is:

(i) sufficient evidence, the law firm represents the TANF recipient.

(I) Statewide this representation consists of assisting the recipient with the application through an unfavorable decision by the SSA Appeals Council.

(II) In counties in which representation by a lawyer or experienced non-lawyer advocate is not available without advance payment, the contracted law firm assists with the pending application for disability through an unfavorable decision by the SSA Appeals Council; or

(ii) insufficient evidence to prove conditions claimed by the TANF recipient, no further services are provided by DAP. Representation by the law firm ceases at any time the law firm determines there is insufficient evidence to support the TANF recipient's claim for disability benefits.

SUBCHAPTER 3. CONDITIONS OF ELIGIBILITY - NEED

PART 3. INCOME

340:10-3-28. Lump sum payments

Lump sum payments received from any source are considered as income. Changing a resource from one form to another is not considered a lump sum payment.

(1) A nonrecurring lump sum payment considered as income includes payments based on accumulation of income and payments which are considered windfall in nature. Retirement benefits received at time of retirement in a lump sum are considered as unearned income. A non-recurring lump sum Supplemental Security Income (SSI) retroactive payment, made to a Temporary Assistance for Needy Families (TANF) recipient who is not currently eligible for SSI, is not counted as income or a resource for TANF purposes in the month paid and the following month. The amount remaining in the second month after the month of receipt is a countable resource.

(2) The ~~social services specialist~~ worker gives the ~~individual~~ person Form ~~FSS-C-4~~ 08TA006E, Important Notice About the Effect of Lump Sum Payments on TANF Benefits, to ensure he or she has knowledge of the effect of lump sum receipt on eligibility.

(3) A recipient who returns the cash assistance for the same month a lump sum is received is not considered a recipient for that month. The recipient must report the lump sum within 10 calendar days of receipt. The cash assistance must be returned within 10 calendar days from the date the lump sum is reported.

(4) ~~An individual~~ A person who receives a lump sum payment may request his or her needs be removed from the assistance unit if, in accordance with OAC 340:10-3-56,

the ~~individual~~ person is not required to be in the assistance unit. If this ~~individual~~ person requests his or her needs be removed, the lump sum rule does not apply. If the ~~individual~~ person does not request his or her needs be removed from the assistance unit, the lump sum rule applies to the entire assistance unit.

(5) Ineligibility due to a lump sum payment received by ~~an individual~~ a person required to be in the assistance unit in accordance with OAC 340:10-3-56 applies to all members of the assistance unit, including those not required to be in the assistance unit.

(6) Any remaining part of a lump sum payment received by a non-recipient prior to the date of application is considered as a resource.

(7) The lump sum rule is not applicable if the period of ineligibility was determined by another state prior to the ~~individuals~~ person establishing residence in Oklahoma.

(8) Lump sum payments minus allowable deductions related to establishing the lump sum payment received by ~~individuals~~ persons are considered as income. Allowable deductions are expenses earmarked in the settlement or award to be used for a specific purpose. Earmarked means an expense specifically set forth in the settlement or award. For earned income received in a lump sum, work related expense and one-half of the remainder are allowed as deductions for each month the earned income accumulated. The lump sum payment is added to all other countable monthly income considered in determining the amount of the TANF benefit including non-excluded child support payments received by the Child Support Enforcement Division. The TANF benefit is not included. If the total equals or exceeds the payment standard for the assistance unit size, the case is determined ineligible. The case remains ineligible for the number of months derived by dividing the total amount of monthly countable income plus the lump sum payment by the need standard for the assistance unit size.

(9) The lump sum payment is considered whether depleted or not until the period of ineligibility has expired. The period of ineligibility begins with the next possible effective date. Any income remaining is treated as other income received in the first month following the period of ineligibility.

(10) If the lump sum is received by a stepparent not included in the TANF unit, the stepparent's countable income including the lump sum is computed in accordance with the stepparent policy at OAC 340:10-3-57(f). Any portion of the lump sum income retained after the month of receipt represents a resource to the stepparent. The resource is considered in determining TANF eligibility only to the extent of the amount actually contributed to the assistance unit.

(11) In all cases where a lump sum payment has been or is expected to be received, the ~~individual~~ person must be advised of the lump sum rule. In all cases where the Oklahoma Department of Human Services (OKDHS) learns from a third party that a lump sum payment has been or is expected to be received, the ~~individual~~ person is advised within five calendar days of the lump sum rule.

(12) The period of ineligibility may be recalculated and shortened when:

(A) an event occurs which, had the assistance unit been receiving TANF, would change the need requirement and the amount of payment including revision of the TANF Need Standard;

(B) the income becomes unavailable due to circumstances beyond the ~~individual's~~ person's control;

(C) the TANF assistance unit has incurred, incurs, or becomes responsible for and pays for an immediate family member's medical or funeral expenses; or

(D) funds from the lump sum are expended to enhance employment.

(13) Recurring lump sum income received from any source for a period covering more than one month is prorated over the period of time it is intended to cover, beginning with the month of receipt of a lump sum payment. On applications and active cases, it is considered as available for the period of time it is intended to cover even though it is depleted in less than that time. If the lump sum closes a case and the ~~individual~~ person later reapplies for TANF, the prorated amount is considered as income for the period of time it was intended to cover even if it has been depleted. Any remaining part of a recurring lump sum payment received by a non-recipient prior to the date of application is considered a resource.

PART 5. ASSISTANCE PAYMENTS

340:10-3-57. Special considerations

(a) **Concurrent receipt of State Supplemental Payment (SSP) for the aged, blind, or disabled.** ~~An individual~~ A person who is not a recipient of Supplemental Security Income (SSI) has an option to be included in a Temporary Assistance for Needy Families (TANF) assistance unit or may be a recipient of SSP if all eligibility requirements are met. The ~~individual~~ person may also be included in the TANF assistance unit pending determination of eligibility for SSP or SSI if all eligibility requirements are met.

(b) **Concurrent receipt of TANF and SSI.** ~~An individual~~ A person cannot be included in a TANF benefit for the same month he or she was included in an SSI payment. If it appears ~~an individual~~ a person included in a TANF application or an active TANF benefit might meet the eligibility conditions for TANF and SSI, the ~~individual~~ person has a choice to have eligibility determined for TANF or SSI benefits. ~~Individuals~~ Persons are informed of their responsibility to report to the Oklahoma Department of Human Services (OKDHS) if any member of the assistance unit makes application for SSI or becomes eligible for SSI. If any assistance unit member applies for TANF or is receiving TANF when the member makes an application for SSI, the member must inform the Social Security Administration (SSA).

(1) When the only dependent child(ren) is receiving SSI, the natural or adoptive parent(s) or needy caretaker

relative may receive TANF if all other factors of eligibility are met. The assistance unit will consist of the adult(s) only.

(2) When a TANF applicant is also an applicant for SSI, eligibility for TANF must be determined and, if eligible, is included in the benefit until notified of SSI eligibility.

(3) When a TANF recipient is an applicant for SSI, the SSA advises the OKDHS of SSI eligibility, and requests the month of TANF termination and the amount of TANF benefits paid for each month of SSI eligibility. SSA considers a recipient removed from a TANF benefit effective with, and based on, the TANF termination date provided orally by the worker. If the actual date of termination is later than the date given orally to SSA, TANF payments to SSI recipients are TANF overpayments and must be recouped.

(4) When a TANF recipient is determined ineligible for SSI the ~~individual~~ person may continue to be included in the TANF assistance unit if all other conditions of eligibility are met.

(5) When a TANF recipient is determined ineligible for SSI for reasons other than a disability determination the ~~individual~~ person may be included in an SSP, if all other conditions of eligibility are met.

(c) **Concurrent receipt of state and tribal TANF.** ~~An individual~~ A person who is included in a tribal TANF payment cannot be included in another TANF benefit in the same month. If the ~~individual~~ person meets the criteria of a tribal TANF service area and population, the entire household must be served by tribal TANF. If the household moves out of the tribe's service area, the worker coordinates certification of state TANF benefits.

(d) **Concurrent receipt of more than one form of public assistance.** ~~An individual~~ A person who is included in a TANF benefit cannot be included in another TANF or SSP benefit for the same period. When a TANF applicant is eligible for TANF but has received a weekly or bi-monthly TANF benefit from another state for the same month the applicant is eligible in Oklahoma, the benefit from the other state is counted as unearned income. ~~An individual~~ A person who is the payee for a TANF benefit, but not included in that benefit, is not prevented from being a recipient of SSP if the SSP eligibility requirements are met. When transferring a TANF recipient to SSP, the removal and approval date must agree.

(e) **Stepparent or person acting in the role of a spouse and parent(s) of a minor parent.** The natural or adoptive parent's income cannot be diverted to meet the needs of the stepparent or other dependents in the home, but is considered available to the TANF assistance unit. No income is considered if the stepparent, person acting in the role of a spouse, or parent(s) of a minor parent is an SSI recipient.

(1) **Stepparent income.** If a stepparent of the child(ren) for whom TANF is requested is living in the home with the child(ren), the verified earned and unearned income of the stepparent, after all applicable TANF income disregards and work related expenses, is computed to determine the amount considered available to the assistance unit. The stepparent's income is computed by:

(A) subtracting the work related expense, one-half of the remaining earned income, and dependent care expense from the stepparent's earned income for full-time or part-time employment; [OAC 340:10-3-33]

(B) adding the net earned income to the stepparent's unearned income;

(C) subtracting the need standard for the appropriate number of ~~individuals~~ persons, including the stepparent and dependents who are not included in the assistance unit but are living in the home and can be claimed on the stepparent's personal income taxes;

(D) subtracting the actual amounts the stepparent paid to ~~individuals~~ persons not living in the household but claimed as tax dependents. It is the stepparent's responsibility to identify and verify tax dependents;

(E) subtracting the actual payments of alimony and child support to ~~individuals~~ persons outside the household; and

(F) adding the stepparent's remaining net income to all other gross income of ~~individuals~~ persons included in the TANF assistance unit. If the income does not exceed the monthly maximum gross income, the remaining income of the stepparent is considered as a contribution to the assistance unit.

(2) **Stepparent resources.** Resources owned exclusively by the stepparent are not considered in determining the assistance unit's resource eligibility. Consideration is only given to the assistance unit's share of resources that are owned jointly with the stepparent.

(3) **Person acting in the role of a spouse.** Income must be considered available to the TANF assistance unit of any non-relative adult(s) of the opposite sex not receiving TANF who lives in the home with the natural or adoptive parent. The income of this ~~individual(s)~~ person(s) is computed the same as stepparent income; however, the exemption of one-half of the remainder and dependent care expense is not applicable in determining this ~~individual's~~ person's countable earned income. ~~[OAC 340:10-3-57(f)(1)]~~ If the parent or the person acting in the role of a spouse fails to provide information necessary to determine income eligibility, the application is denied or the cash assistance terminated.

(4) **Parent(s) of a minor parent.** When a minor parent is living in the home with his or her natural or adoptive parent(s) and the needs of the parent(s) are not included in the assistance unit, the parent's income is considered available to the assistance unit and computed the same as stepparent income. ~~[OAC 340:10-3-57(f)(1)]~~ The income of a minor parent's stepparent is not considered. The parent of the minor parent may be designated as the substitute payee for the case.

(f) **Allocating or diverting income.** When family members are not included in the assistance unit, special consideration is required in determining the income available to the assistance unit.

(1) Income received by ~~an individual~~ a person included in the assistance unit is not allocated or diverted to ~~individuals~~ persons who are not in the assistance unit. All countable unearned and earned income of the ~~individual~~ person is considered available to the assistance unit.

(2) The net income of an alien parent excluded from the benefit because the citizenship or alienage requirement is not met is considered the same as stepparent income. The needs and income of disqualified alien siblings are not considered when determining eligibility of an otherwise eligible child(ren).

(3) The net income of a fugitive felon excluded from the benefit is considered the same as stepparent income.

(g) **Benefit reduction as a result of program violation.** The TANF benefit is reduced by 25% of the payment standard when a determination of program violation has been made. The 25% penalty is removed the next effective date when compliance is documented or the time frame for the penalty has ended. When multiple types of program violations have occurred, a 25% penalty of the payment standard is imposed for each type of violation. If the benefit reduction causes existing income to be in excess of the benefit amount, the case is closed using the reason for the benefit reduction. The amount of the payment standard reduction applies as Food Stamp Penalty Income in the Food Stamp Program. [OAC 340:50-7-29(b)(1)] Reasons for benefit reduction are:

(1) refusal to cooperate in an effort to obtain child support; [OAC 340:10-10-5(c)]

(2) failure to apply for or provide a Social Security number;

(3) failure of a child(ren) kindergarten age to 18 years of age to attend school; [OAC 340:10-13]

(4) failure to provide verification of child(ren) immunizations; and [OAC 340:10-14]

(5) intentional program violations determined as fraud by court action or an administrative disqualification hearing or administrative hearing waiver. [OAC 340:65-9-4]

(h) **Parent living in the home receiving SSP.** When there is a parent living in the home but not included in the TANF benefit because of receipt of SSP and not SSI, consideration is not given to that parent's individual income for the TANF benefit. When a parent in the SSP benefit becomes ineligible to continue to receive the SSP, the parent is included in the TANF benefit and all the income and resources of the parent are considered in determining eligibility for TANF. If consideration of the parent's income and resources causes the TANF benefit to be closed, and the closure of the SSP benefit was a direct result of an overall Social Security increase, the SSP benefit is placed in Special Medical Status. If the parent is living in the home but not included in the TANF benefit because of receipt of SSP and SSI, no consideration is given to the parent's income and the parent is not included in the TANF assistance unit as long as the parent remains eligible for SSI.

(i) **TANF eligibility when the child(ren) is placed in out-of-home care.** When the child(ren) is removed by a child protection action and it is reasonably anticipated the child(ren) will return to the home within four months, the natural or adoptive parent or needy caretaker relative continues eligible for TANF, if other conditions of eligibility are met.

(1) A team consisting of the worker, the Child Welfare (CW) worker, the natural or adoptive parent or needy caretaker relative, and any other appropriate partner(s) must meet to develop a mutually agreed upon plan of action. This plan addresses employability and strategies to correct the conditions which caused the child(ren) to be removed from the home.

(2) At the end of the four month period if the child(ren) has not been returned to the home, the adult(s)' needs are removed and the TANF benefits are discontinued.

(j) **Strikers.** The assistance unit is not eligible for TANF for any month the natural or adoptive parent, whether or not included in the benefit, is participating in a strike on the last day of that month. ~~An individual~~ A person other than the natural or adoptive parent is not included in the benefit for any month if that ~~individual~~ person is participating in a strike on the last day of the month.

340:10-3-59. Assistance benefits

(a) **Availability of funds.** If funds in any category of assistance are not sufficient to meet the full need of all ~~individuals~~ persons in that category within the Oklahoma Department of Human Services (OKDHS) policy, the Commission for Human Services (Commission) specifies the percentage of total requirements for which funds are available. The formula for computing the assistance payment is the need standard multiplied by the percent specified by the Commission equals the payment standard. The payment standard minus the total available net income equals the amount of the assistance payment.

(b) **Maximum benefits.** The maximum benefit a Temporary Assistance for Needy Families (TANF) assistance unit is eligible to receive cannot exceed a nine-person payment standard. A TANF eligible child(ren) who is not a blood-related sibling to the other TANF eligible child(ren) must have his or her own case.

(c) **Minimum payments.** The minimum TANF benefit is $10 except for recoupment of an overpayment. No TANF benefit is issued when the family is eligible for a monthly benefit of less than $10. However, the TANF case is eligible as an active case in "Special Medical Status" and the family can receive food ~~stamps~~ benefits in this case, if eligible.

(d) **Payment to minors.** Minors ~~16 years of age or older~~ may be considered as the adult payee for TANF on behalf of others if the ~~individual~~ person is assuming the responsibilities of an adult and meets all conditions of eligibility for TANF. ~~Minors 15 years of age or under may be counted as an adult on a case if the qualifications of adult responsibility are met. However, he or she cannot be the payee on the case.~~

(e) **Overpayments.** The overpayment may be the whole or any part of the benefit or vendor payment made when the recipient did not meet all conditions of eligibility.

(f) **Non-conditioning of benefits.** The flat grant system of budgeting was developed to determine the extent of need based on the number of eligible persons and is not interpreted to restrict in any way the use the recipient makes of the TANF

benefit. This also precludes any agreement on the part of OKDHS to pay or guarantee payment for goods or services provided to recipients by vendors in lieu of money payment.

PART 7. TRANSITIONAL BENEFITS

340:10-3-75. Continued medical benefits (CMB)

(a) **Conditions for CMB.** Medical benefits are continued when a Temporary Assistance for Needy Families (TANF) benefit is closed due to the receipt of child or spousal support, or new or increased earnings of the caretaker relative. The medical assistance coverage is of the same amount, duration, and scope as if the assistance unit continued receiving TANF. Eligibility for CMB begins with the effective date of closure or the effective date of closure had the income been reported timely. ~~An individual~~ A person is included for CMB only if that ~~individual~~ person was eligible for TANF and included in the assistance unit at the time of the closure. To be eligible for CMB the assistance unit must meet all of the requirements listed in (1) - (~~3~~4) of this subsection.

(1) At least one member received TANF in at least three of the six months immediately preceding the month of case closure.

(2) The assistance cannot have ~~been~~ received fraudulently as determined by Family Support Services Division~~, Overpayment Section,~~ Benefit Integrity and Recovery Section in any one of those six months.

(3) The assistance unit must include a dependent child who meets the age and relationship requirements for TANF and whose needs are included in the TANF assistance unit at the time of closure, unless the only eligible child is a Supplemental Security Income (SSI) recipient.

(4) Client must comply with Soonercare (Medicaid) citizenship and identity verification rules at OAC 317:35-5-25.

(b) **Closure due to child support or spousal support.** Medical benefits are continued if the TANF closure is due to the receipt of new or increased child support or payments for spousal support in the form of alimony. The medical benefits are continued for four months.

(c) **Closure due to new or increased earnings of caretaker relative.** Medical benefits are continued if the closure is due to the new or increased earnings of the caretaker relative. The caretaker relative's needs must be included in the assistance unit at the time of closure. The caretaker relative who is the natural or adoptive parent is required to cooperate with Child Support Enforcement Division during the period of time the family is receiving CMB. If the caretaker relative changes during the CMB period, the assistance unit loses its CMB coverage.

(1) **Eligibility.** Medical benefits may be continued for a period up to 12 months. This period is divided into two six-month periods with eligibility requirements and procedures for each period.

(A) **Initial six-month period.** The assistance unit is eligible for CMB if:

(i) an eligible child remains in the home;

(ii) the caretaker relative remains the same; and

(iii) the assistance unit remains in the state.

(B) **Additional six-month period.** Medical benefits are continued for the additional six month period if:

(i) an eligible child remains in the home;

(ii) the caretaker relative remains the same;

(iii) the assistance unit remains in the state;

(iv) the assistance unit was eligible for and received CMB for each month of the initial six month period;

(v) the assistance unit has complied with reporting requirements in (4) of this subsection;

(vi) the assistance unit has average monthly earned income that does not exceed the standard which is based on 185% of the Federal Poverty Level; and

(vii) the caretaker relative had earnings in each month of the three-month reporting period, unless the lack of earnings was due to an involuntary loss of employment, illness, or other good cause.

(C) **Income eligibility.** Income eligibility is determined using rules in (i) through (ix) of this subsection.

(i) The unearned income and resources of the assistance unit are disregarded in determining eligibility for CMB.

(ii) There is no earned income test for the initial six-month period.

(iii) The assistance unit's medical benefits are not continued for the additional six-month period if the assistance unit's countable earnings exceed the standard.

(iv) Income is determined by averaging the entire assistance unit's gross monthly earnings for the three-month reporting period.

(v) Use average family size for the immediate preceding three months when the family size changes during the three-month period.

(vi) The only deduction allowed is the cost for approved child care necessary for the employment of the caretaker relative. The child care deduction is averaged for the same three-month reporting period. There is no maximum amount for this deduction.

(vii) The earnings of all assistance unit members are used in determining the earned income test. The earnings of additional family members are considered only if that member is a natural or adoptive parent.

(viii) The needs of all ~~individuals~~ persons whose earnings are considered are included in determining the household size for the income test.

(ix) The earned income of a full time student included in the assistance unit is disregarded the same as in TANF rules.

(D) **Eligible child.** When the TANF benefit is closed and CMB begins, the assistance unit must

include an eligible child whose needs were included in the TANF benefit at the time of closure, unless the only eligible child is a SSI recipient. After the CMB begins, the assistance unit must continue to include an eligible child. However, age is the only requirement an eligible child must meet. This means that the eligible child does not have to meet the deprivation factor once CMB begins.

(E) **Additional members.** After the CMB begins, family members who move into the home cannot be added to the CMB coverage. This includes siblings and a natural or adoptive parent(s). If the additional member is in need of medical services, ~~an~~ a new application ~~for services under the regular Medical Assistance Program~~ is completed for that person. If an assistance unit member included in the CMB leaves the home and then returns, that member may be added back to the CMB coverage if all conditions of eligibility are met. A child under the age of one year whose mother is included in the CMB coverage, is added to the assistance unit if the child is deprived of parental support.

(F) **Third party liability.** The assistance unit's eligibility for CMB is not affected by a third party liability. However, the assistance unit is responsible for reporting all insurance coverage and any changes in the coverage. The ~~social services specialist~~ worker must explain the necessity for applying benefits from private insurance to the cost of medical care.

(G) **Termination of CMB.** The CMB coverage is discontinued any time the assistance unit fails to meet the eligibility requirements as shown in this Section. If it becomes necessary to discontinue the CMB coverage for the assistance unit or any member of the assistance unit, the ~~individual(s)~~ person must be advised that he or she may be eligible for medical benefits under the regular ~~Medical Assistance~~ SoonerCare (Medicaid) Program and how to obtain these benefits.

(2) **Notification.** Notices are sent to the assistance unit, both at the onset of and throughout the CMB period. These notices, which are sent at specific times, inform the assistance unit of its rights and responsibilities. When a TANF benefit is closed and the assistance unit is eligible for CMB, the computer generated closure notice includes notification of the continuation of medical benefits. Another computer generated notice is sent at the same time to advise the assistance unit of the reporting requirements and under what circumstances the medical benefits may be discontinued. Each notice listed in (A)-(C) of this paragraph includes specific information about what the assistance unit must report. The notices serve as the required advance notification in the event benefits are discontinued as a result of the information furnished in response to these notices.

(A) **Notice #1.** PSNCM1 is issued in the third month of the initial continued medical eligibility period. This notice advises the assistance unit of the additional six-month period of CMB, the eligibility conditions, reporting requirements, and appeal rights.

(B) **Notice #2.** PSNCM2 is issued in the sixth month of the continued medical eligibility period, but only if the assistance unit is eligible for the additional six-month period. This notice advises the assistance unit of the eligibility conditions, reporting requirements, and appeal rights.

(C) **Notice #3.** PSNCM3 is issued in the ninth month of the continued medical eligibility period, or the third month of the additional six-month period. This notice advises the assistance unit of the eligibility conditions, the reporting requirements, appeal rights, and the expiration of CMB coverage.

(3) **Notices not received.** In some instances the assistance unit does not receive all of the notices listed in ~~(e)(2)(A)-(C)~~ (c)(2)(A)-(C) of this Section. The notices and report forms are not issued retroactively.

(4) **Reporting.** The assistance unit is required to periodically report specific information. To assist the unit, Form ~~CM-5~~ 08TA018E, Continued Medical Benefit Reply Form, is sent at the same time as the notices generated during the CMB period. Though preferred, it is not mandatory for the report form itself to be returned. The information may be reported by telephone, in an office interview, or by letter.

(A) The assistance unit must report:

(i) gross earned income of the entire assistance unit for the appropriate three-month period;

(ii) child care expenses, for the appropriate three-month period, necessary for the caretaker relative's continued employment;

(iii) changes in members of the assistance unit;

(iv) residency; and

(v) third party liability.

(B) The reporting requirement time frames are explained in this subparagraph.

(i) The information requested in the third month must be received by the 21st day of the fourth month and is used to determine the assistance unit's eligibility for the additional six-month period. While this report is due in the fourth month, negative action cannot be taken during the initial period for failure to report. If the assistance unit fails to submit the requested information, benefits are automatically suspended effective the seventh month. If action to reinstate is not taken by deadline of the suspension month, the computer automatically closes the case effective the next month.

(ii) The information requested in the sixth month must be furnished by the 21st day of the seventh month. The decision to continue benefits into the eighth month is determined by the information reported.

(iii) The information requested in the ninth month must be furnished by the 21st day of the tenth month. The decision to continue medical

benefits into the 11th month is determined by the information reported.

(I) When the information is not reported timely, the CMB are automatically suspended by the computer for the appropriate effective date.

(II) If the assistance unit subsequently reports the necessary information, the ~~social services specialist~~ worker determines eligibility.

(III) If all eligibility factors are met during and after the suspension period, the medical benefits are reinstated. The effective date of the reinstatement is the same as the effective date of the suspension so the assistance unit has continuous medical coverage.

(d) **Receipt of medical benefits after CMB ends.** To ensure continued medical coverage, Form ~~SC 2~~ 08MA007E, Recertification of Eligibility for SoonerCare Health Benefits, is computer generated and mailed to the assistance unit during the third month of CMB for benefits closed due to the receipt of child or spousal support or the 11th month of CMB for benefits closed due to increased earnings. The assistance unit must return Form ~~SC 2~~ 08MA007E for a medical redetermination to be made prior to the termination of the CMB benefits. When determined eligible, medical benefits continue as health benefits not CMB. If the assistance unit fails to return Form ~~SC 2~~ 08MA007E, ~~CMB~~ medical benefits are terminated.

SUBCHAPTER 10. CONDITIONS OF ELIGIBILITY - DEPRIVATION

340:10-10-7. Oklahoma Department of Human Services (OKDHS) responsibilities in relation to support payments

(a) **Referral to the Child Support Enforcement Division (CSED).** Federal regulations require referral to CSED no later than two working days after the Temporary Assistance for Needy Families (TANF) benefit is issued based on deprivation due to absence. The appropriate completed CSED forms supplement the computer-generated referral and are submitted, with the exception of good cause, to CSED. Information which may have an effect on support enforcement may become known after the CSED district office referral has been made.

(b) **Receipt of child support or spousal support.** For purposes of this Subchapter, child support is defined as voluntary monetary contributions or court-ordered obligations. When a child support order also contains an order for spousal support which may be referred to as alimony or support alimony in Oklahoma, the obligation for spousal support must also be assigned to OKDHS. At the application interview, the applicant is informed of the responsibility to forward to the Oklahoma Centralized Support Registry (OCSR) any support payments received from the absent parent(s) after TANF certification.

(1) **Payments received during application period.** All child support payments reported by an applicant during the time prior to certification are considered as income. For purposes of rules in this Chapter, certification is considered the date of the supervisor's signature authorizing payment. Support anticipated to be received after certification is not considered as the client has agreed by signing ~~Form FSS 1, Comprehensive Application and Review,~~ the application to submit any future payments to OCSR.

(2) **Payments received after certification.** Any support payments brought to the ~~county office~~ human services center (HSC) by the client after certification must be forwarded to OCSR. Payments are not sent in the form of cash.

(3) **Retained support payments.** If the worker becomes aware that the client has retained assigned support payments, the CSED district office is contacted with this information.

(A) The client is considered as not cooperating if:

(i) assigned support paid directly to the client is retained;

(ii) he or she refuses to repay a retained support overpayment in full or sign a repayment plan;

(iii) he or she fails to make payments according to the repayment agreement; or

(iv) he or she retains assigned direct support payment even if any overpayment has been repaid in full or a repayment plan is being followed.

(B) The CSED district office determines whether non-cooperation has occurred and notifies the ~~county~~ worker. When non-cooperation is determined, the TANF cash assistance is reduced by 25% of the TANF payment standard and the support is considered as income the next effective date.

(C) When notified by CSED that the client has resumed cooperation, the worker removes the 25% penalty and no longer considers the support as income. The cash assistance is increased the next effective date.

(4) **Child support and other income exceeds cash assistance.** When a support payment is received that is greater than or equal to that month's TANF cash assistance, the TANF cash assistance must be closed the next effective date. If the TANF cash assistance is not closed timely, any child support payment received during that month or subsequent months is retained by CSED for reimbursement of TANF payments made for those months or any preceding months. When child support, spousal support, or both, causes ineligibility, the family is entitled to continued medical benefits. Following reimbursement of all TANF cash assistance, any excess payment remaining is forwarded to the client.

(5) **Federal and/or state tax intercept payments.** Federal and/or state tax intercept is used for the collection of current and past due child support payments, including interest owed.

(A) Tax intercept payments collected by CSED prior to the client's current receipt of TANF and held for six months may be distributed to the client and is considered as a resource the month following the month of receipt.

(B) Tax intercept payments collected for interest owed on past due child support may be forwarded to the client when the principle amount of past due child support has been paid off.

(c) **Arrearage in child support payments.** CSED determines the amount of child support owed by the absent parent, which includes any arrearages. Arrearages are amounts that are past due for previous months. When a child support payment received by OKDHS during any given month includes arrearages, paragraphs (1) through (2) of this subsection apply.

(1) Any portion of the arrearages for months during which the family was receiving TANF is considered as reimbursement to OKDHS for the TANF received by the family.

(2) The only payment from such arrearages made to the family is that portion, if any, which exceeds the total TANF payments.

(d) **Child support services after TANF closure.** At the time the TANF benefit is closed, the client is advised that he or she can receive non-TANF Child Support Services with no further application, no fee required, nor charge for collection deducted. This service occurs automatically unless the client specifically requests in writing that CSED not provide the service or the client becomes ineligible for non-TANF Child Support Services for some other reason.

SUBCHAPTER 15. CONDITIONS OF ELIGIBILITY - CITIZENSHIP AND ALIENAGE

340:10-15-1. Citizenship and alien status

(a) An individual eligible to be included in a Temporary Assistance for Needy Families (TANF) benefit, must be either:

(1) a citizen or a national of the United States (U.S.), including the 50 states, District of Columbia, commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa and Northern Mariana Islands. An individual may be a citizen of the U.S. by being born in the U.S. or by being born in some other country but moving to the U.S. and being granted U.S. citizenship through the U.S. Citizenship and Immigration Services (USCIS) a bureau of the U.S. Department of Homeland Security; or

(2) a qualified alien described as:

(A) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA);

(B) an alien who is paroled into the U.S. under Section 212(d)(5) of ~~such Act~~ INA for a period of at least one year;

(C) an alien who is granted conditional entry pursuant to Section 203(a)(7) of ~~such Act~~ INA as in effect prior to April 1, 1980;

(D) an alien who is granted asylum under Section 208 of ~~such Act~~ INA;

(E) a refugee who is admitted to the U.S. under Section 207 of ~~such Act~~ INA;

(F) an alien whose deportation is withheld under Section 243(h) or Section 241(b)(3) of ~~such Act~~ INA;

(G) an alien who is a Cuban or Haitian entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;

(H) battered aliens and their children or parents as defined in Section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act as amended; or [8 U.S.C. 1641(c)]

(I) an alien and his or her eligible relatives who are victims of a severe form of trafficking pursuant to Section 107(b) of the Trafficking Victims Protection Act of 2000 which was reauthorized and amended by the Trafficking Victims Protection Reauthorization Act of 2003.

(b) A qualified alien who enters the U.S. on or after August 22, 1996, is not eligible for TANF benefits for a five year period beginning on the date of the alien's entry into the U.S. with a qualified alien status unless the alien is:

(1) admitted to the U.S. as a refugee;

(2) granted asylum;

(3) one whose deportation is being withheld;

(4) a Cuban or Haitian entrant;

(5) admitted to the U.S. as an Amerasian immigrant;

(6) lawfully residing in the state and is a veteran of the U.S. armed forces, on active duty, or is that person's spouse or unmarried dependent child; or

(7) is a victim of a severe form of trafficking.

(c) A declaration of citizenship and alien status is required for all adults and children in the TANF benefit. This requirement is met when an adult member in the assistance unit completes and signs ~~Form FSS-1, Comprehensive Application and Review,~~ the application or review form attesting to the citizenship and alien status for all members of the assistance unit. Refer to OAC 340:65-3-1(g) for additional citizenship requirements for persons 14 years of age and older pursuant to Section 71 of Title 56 and Section 20j of Title 74 of the Oklahoma Statutes.

(d) Declaration on behalf of a newborn child may be delayed provided the delay does not exceed the date of the assistance unit's next eligibility redetermination.

(e) Persons determined as having satisfactory alien status must have the status verified through Systematic Alien Verification for Entitlements (SAVE). In situations which require a written inquiry to the USCIS, the worker must not delay, deny, terminate, or reduce benefits to an alien pending USCIS verification of submitted documentation.

(f) All persons born in the U.S. are, with rare exceptions, U.S. citizens. Documents of citizenship or national status of individuals from certain U.S. territories or possessions listed in (a)(1) of this Section may not be in their possession nor available. Their status can usually be determined by birth certificate, passport, or other official document.

SUBCHAPTER 20. DIVERSION ASSISTANCE

340:10-20-1. Diversion Assistance (DA)

(a) **Scope.** DA for families with a minor child(ren) provides for financial assistance in lieu of Temporary Assistance for

Needy Families (TANF) when there is an immediate need to retain or obtain employment. DA is not used to pay fines, including traffic fines, or any cost related to a criminal offense, such as legal fees or court costs. DA is not to be used for reimbursement of expenses already paid by client or others. DA is limited to once in the lifetime of the applicant(s); therefore, it is vital that financial planning be initiated to determine if the provision of DA will allow the family to be self-sufficient for the next 12 months. Families approved for this benefit are not included in the count of persons reported for federal participation rates and these payments do not count against the ~~individual(s)~~ person's 60-month lifetime limit of receipt of TANF. For this reason, an adult must be included in the DA benefit.

(b) **Need.** The criteria for the eligibility for DA are described in (1) through (4).

(1) The ~~individual(s)~~ person is employed or has a bona fide offer of employment.

(2) There is a financial need which, if not met, can cause the loss of employment or the offer of employment for the ~~individual(s)~~ person.

(3) The family monthly gross income cannot exceed the gross income maximum as shown on the Oklahoma Department of Human Services (OKDHS) Appendix ~~C-1~~ 08AX001E, Maximum Income, Resource, and Payments Standards, Schedule XVI, for the appropriate family size.

(4) Family resources cannot exceed limits as shown on OKDHS Appendix ~~C-1~~ 08AX001E, Schedule XVI.

(c) **Requirements.** The ~~applicant(s)~~ applicant completes Form ~~FSS-1~~ 08MP001E, ~~Comprehensive Application and Review~~ Request for Benefits, Form 08MP002E, Eligibility Information for Benefits, and Form 08MP003E, Responsibilities and Signature for Benefits, to apply for DA. ~~Which states the applicant(s)~~ When the applicant signs Form 08MP003E, he or she agrees to not apply for TANF for one year from the date of application for DA. In two-parent families both parents must sign the application form.

(1) Refer to OAC 340:65-3-4 for Social Security number (SSN) requirement. The application is not delayed waiting for a SSN.

(2) Refer to OAC 340:10-15 and OAC 340:65-3-1(g) for requirements for citizenship and alienage.

(3) The application is processed within seven working days.

(d) **Benefits.** Benefits can equal up to three months of the payment standard as shown on OKDHS Appendix ~~C-1~~ 08AX001E, Schedule XVI for the appropriate family size. Benefits can be approved in more than one authorization as long as the request for additional funds is made before the end of the 90 calendar day period which begins with the initial date of application, and does not exceed three times the monthly payment standard for the family size. Payment is issued through an authorization to purchase.

[OAR Docket #08-464; filed 3-27-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 40. CHILD CARE SERVICES

[OAR Docket #08-465]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Initial Application
340:40-3-1 [AMENDED]
Subchapter 5. Plan of Service
340:40-5-1 [AMENDED]
Subchapter 7. Eligibility
340:40-7-1 [AMENDED]
340:40-7-5 [AMENDED]
340:40-7-8 through 340:40-7-10 [AMENDED]
340:40-7-13 [AMENDED]
Subchapter 9. Procedures Relating to Case Changes
340:40-9-1 through 340:40-9-2 [AMENDED]
Subchapter 10. Electronic Benefit Transfer (EBT) System for Child Care
340:40-10-4 [AMENDED]
Subchapter 13. Child Care Rates and Provider Issues
340:40-13-3 [AMENDED]
340:40-13-5 [AMENDED]
Subchapter 15. Overpayments
340:40-15-1 [AMENDED]
Subchapter 16. Improper Authorization Initiative [NEW]
340:40-16-1 [NEW]
(Reference APA WF 07-28)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law (P.L.) 104-193; the Balanced Budget Act of 1997, P.L. 105-33; and 45 Code of Federal Regulations (CFR) Parts 98 and 99.
DATES:
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December 17, 2007 through January 16, 2008
Public hearing:
None requested
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January 23, 2008
Submitted to House:
January 23, 2008
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Gubernatorial approval:
March 1, 2008
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 27, 2008.
Final adoption:
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Effective:
June 1, 2008
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
Revisions to Subchapters 3, 5, 7, 9, 10, 13, 15, and 16 of Chapter 40 amend rules to: (1) remove language allowing a tribal member to receive child care benefits and receive help from his or her tribe in paying the family share co-payment because of recent federal interpretation to stop this practice; (2) add a citizenship requirement for children 14 years of age or older; (3) add language to show that child care benefits can be denied when the client is not cooperating in pursuing child support; (4) remove language regarding an exemption from pursuit of child support for children removed from the home by court order; (5) add language to show income from a new source is not considered available until it has actually been received; (6) add the requirement

that child care providers must provide a copy of the Oklahoma State Bureau of Investigation (OSBI) background report for the director and/or business manager of a child care center or the spouse of a child care home owner; (7) remove the requirement that in-home providers must view the training before receiving a child care contract since training is primarily addressing claims that are filed electronically and in-home providers file manually; (8) add a new requirement to the contracting process that when the facility is owned by an out-of-state child care owner, both the owner and the child care director must view the training; (9) add the requirement that a child care provider must pass a proficiency test after viewing the training; (10) remove language that a child care owner who has previously viewed the training does not need to view it again when applying for a contract at a new location; (11) remove language specifying the exact months a child care contract is effective; (12) show current responsibilities for who writes and establishes overpayments; (13) revise the name of the Family Support Services Division (FSSD) Section that receives overpayments; and (14) add language regarding the review of a sample of applications and case actions relating to the Child Care Program by the Administrative Review Unit (ARU).

CONTACT PERSON:

Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2008:

SUBCHAPTER 3. INITIAL APPLICATION

340:40-3-1. Application process

(a) **Application process.** The application process for subsidized child care benefits begins with a request for an application form and ends with determining the household's eligibility and entering that determination into the computer system.

(1) **Staff responsible for processing the application.** A Family Support Services (FSS) worker completes all applications when an eligibility determination for a family must be made. FSS workers also complete applications for children in tribal custody, children under an Interstate Compact on the Placement of Children (ICPC) with another state, or when Child Welfare (CW) staff contract with an outside agency to provide protective or preventive child care services. CW staff must process all applications made by CW foster parents for child care. In most instances, CW staff complete protective or preventive child care requests when they are working with the family and recommending protective or preventive child care.

(2) **When an application is required.** A new application is required when:

(A) an applicant initially applies for subsidized child care benefits;

(B) expedited eligibility processing was used in accordance with subsection (b) of this Section and requested verification is not returned within 60 calendar days of the application date;

(C) the payee for the subsidized child care benefits changes;

(D) the client's subsidized child care benefits close after approval for 30 calendar days of child care to search for a job in accordance with OAC 340:40-7-8(a)(6); or

(E) the client's subsidized child care benefits have been closed for more than 30 calendar days.

(3) **Who can apply.** An applicant or the applicant's authorized representative may apply for subsidized child care benefits. If an authorized representative applies on behalf of an applicant, he or she must bring a signed statement from the applicant giving this person permission to act on behalf of the applicant or the applicant must have designated this person as his or her authorized representative on the signed application.

(A) If the natural or adoptive parent or stepparent of the child is in the home, he or she is considered the applicant and eligibility is based on that parent's situation regardless of whether he or she has custody of the child.

(B) If both the natural and adoptive parent of the child are living in the same household and the adoption has been finalized, the adoptive parent is considered the applicant and eligibility is based on that parent's situation.

(C) If the natural or adoptive parent or stepparent is not in the home, the person acting in the role of the parent, referred to as the caretaker, is the applicant. The caretaker may or may not be related to the child.

(D) If the parent is a minor, either the minor parent or the responsible adult the minor is living with can be considered the applicant for the subsidized child care benefits. Eligibility is based on the minor parent's situation.

(E) If the natural or adoptive parent is living in the home but is too incapacitated to apply, someone else living in the home may apply for the natural or adoptive parent. The other person must provide proof of the parent's inability to apply.

(4) **Application form.** An applicant or the applicant's authorized representative completes and signs ~~Form 08CC002E, Application for Child Care Services, or~~ Form 08MP001E, ~~Comprehensive Application and Review~~ Request for Benefits, Form 08MP002E, Eligibility Information for Benefits, and Form 08MP003E, Responsibilities and Signature for Benefits, to apply for subsidized child care benefits. When child care is needed for a child with disabilities, the worker and applicant also complete Form 08AD006E, Certification for Special Needs Child Care Rate.

(5) **Date of request.** The date of request is the date the applicant requests subsidized child care benefits verbally or in writing.

(6) **Date of application.** The date of application is the date the applicant or the applicant's authorized representative completes the child care interview and provides all necessary verification to the human services center. This includes providing the name of the child care provider the client wishes to use.

(A) The provider must already have a valid Oklahoma Department of Human Services (OKDHS) child care provider contract.

(B) See OAC 340:40-5-1(7) for reasons an applicant cannot choose certain child care providers.

(C) For applicants choosing an in-home provider, see OAC 340:40-13-1 and 340:40-13-2.

(7) **Child care interview.** Child care interviews are typically completed face-to-face with the applicant or authorized representative. A face-to-face interview is required for protective or preventive child care requests and strongly recommended for special needs requests.

(8) **Explanation of eligibility factors.** At the time of the initial interview, the worker advises the applicant or authorized representative of:

(A) his or her rights and responsibilities;

(B) all factors of eligibility including which child care providers are eligible to receive subsidy payment;

(C) the plan of service and reason child care may be approved based on the applicant's statements at interview;

(D) the applicant's electronic benefit transfer (EBT) responsibilities that includes viewing the client training video~~.~~;

(E) the earliest date child care can be approved;

(F) the requirement to cooperate with the OKDHS Office of Inspector General during any audit or investigation of the applicant or the provider the applicant uses for child care; and

(G) the requirement to report within ten calendar days any changes in his or her circumstances.

(9) **Timeliness.** Near real-time (NRT) benefit processing time frames are used for all child care applications. To be considered timely, the worker must determine eligibility within two working days of receiving all necessary verification to certify or deny the application. If the applicant does not provide requested verification, the worker denies the request within 30 calendar days of the date of request. The worker sends Form 08MP037E, Notice Regarding Social Services, explaining the reason for delay to any applicant whose application is over 30 days old.

(10) **Right to appeal.** The applicant has the right to appeal the untimely processing of a child care request or the decision of eligibility or ineligibility per OAC 340:2-5.

(b) **Expedited eligibility processing.** The worker must process an application immediately when required verification is beyond the applicant's control to provide, the applicant does not have the money to pay toward the cost of child care, and without child care the applicant:

(1) is in danger of losing a job; or

(2) cannot start a new job.

(c) **Eligibility determination.** The worker uses OKDHS Appendix ~~C-4~~ 08AX005E, Child Care ~~Eligibility/Rates Schedule~~ Eligibility/Co-payment Chart, to determine whether the household meets income guidelines. See OAC 340:40-5-1(8) for more information about income determination.

(1) **Applicant determined eligible.** The earliest date the worker approves subsidized child care benefits is the date the applicant provides all necessary verification to determine eligibility. The applicant is responsible for any child care used before the certification date or which is not part of the approved child care plan of service.

(A) The client swipes attendance with his or her EBT card through a point-of-service (POS) machine at the child care facility.

(B) OKDHS does not pay for care for any day the child attends child care if the client fails to swipe attendance unless extenuating circumstances exist beyond the control of the client and/or provider.

(C) If the client fails to swipe attendance, he or she is responsible for any care given for that day and may be responsible for any absent day payment OKDHS pays if all days the child attended were recorded.

(2) **Applicant determined ineligible.** The request or application is denied if the applicant is ineligible, does not provide needed verification, or requests cancellation of the application. A new application form is not needed when the applicant completes the application process and provides necessary verification within 60 calendar days of the original request date.

SUBCHAPTER 5. PLAN OF SERVICE

340:40-5-1. Plan of service

Plan of service. Providing child care is part of an overall plan of service designed to help the parent or caretaker with whom the child lives to achieve his or her maximum potential for self-support. Quality child care services assure the parent or caretaker that each child has adequate care that affords developmental and learning experiences while the parent or caretaker is engaged in self-support activities. The plan of service consists of many components that all link to form a goal-directed plan of care, and includes the components in (1) through (11).

(1) **Child characteristics.** The worker gathers information about the child for whom child care is needed including his or her name, age, grade level, and whether the child has a disability.

(2) **Need for child care.** The worker determines whether the parent or caretaker meets a need factor in accordance with OAC 340:40-7-7 and 340:40-7-8.

(3) **Plan hours.** The worker gathers information about the days and hours the parent or caretaker meets the need factor, including travel time. When there are two parents or caretakers in the home, the worker only approves subsidized child care benefits when both parents or caretakers meet a need factor during the same hours in accordance with OAC 340:40-7-7 and OAC 340:40-7-8. Based on the days and hours the child requires care, the worker approves a full-time daily, part-time daily, a combination of full-time and part-time daily, weekly, or a blended unit type.

(4) **Alternative to subsidized child care benefits.** The worker explores with the client whether there is an appropriate, feasible alternative to Oklahoma Department of Human Services (OKDHS) subsidized child care benefits. If the alternative is a spouse or the natural or adoptive parent of the child who lives in the home, the client must use the alternative rather than subsidized child care benefits. If the alternative is someone else, the client has a choice whether to use this alternative or not. Possible alternatives include:

(A) care by a dependable relative who is able and willing to assume responsibility for care and supervision of the child for part of the day;

(B) care in a free or low cost facility, such as a preschool, pre-kindergarten, kindergarten, Head Start, Early Head Start, or tribal child care program;

(C) dependent care expenses that are considered as earned income exemptions, per OAC 340:10-3-33(3); and

(D) for a school age child, the rearrangement of the parent's or caretaker's employment or training schedule to coincide with the hours the child is in school.

(5) **Plan to increase income.** At each application or review the client and worker discuss ways the client can increase income to the household and identify the goals child care helps the family achieve. Together they estimate when the family can assume progressively greater responsibility for the cost of child care. The worker makes referrals to other agencies as appropriate and in accordance with OAC 340:40-7-9.

(6) **Back up plan.** The worker discusses with the client the back up plan for child care that is in place if the child cannot go to the usual provider because of illness, school holidays, or other unforeseen emergency. The back up plan includes the name and address of a person the client feels he or she can rely on when the normal plan of care cannot be used.

(7) **Choice of provider.** The worker documents the choice of provider on the application or review form. If the client does not choose a provider at the time of request, the worker provides the client with information to help in making the choice. The client may choose a family child care home regardless of star level. The client may not choose a child care:

(A) facility that does not have a valid contract with OKDHS;

(B) facility in which the client or his or her spouse, including the child's parent or stepparent, has an ownership interest;

(C) home in which the child resides;

(D) home in which the client also works during the hours his or her child(ren) is in care unless an approval is obtained from the Family Support Services Division (FSSD), Child Care Section;

(E) provider who does not allow parental access during the hours the provider is caring for children;

(F) provider who is receiving state or federal funds, such as Head Start, Early Head Start, or public schools, unless:

(i) all parents are charged a fee for the hours subsidy payment is requested; and

(ii) the program offers extended day services. Programs operating only during typical school or Head Start hours are not eligible;

(G) provider caring for a school age child during the regular school day when such student could be attending a public or private school during those hours; or

(H) center, which is a one star facility unless there are no one plus, two, or three star centers in the community or special exception criteria are met. Special exception criteria are:

(i) the child was already approved for care at this one star center prior to January 1, 2003 or prior to the provider's star status being reduced to one star. The child can remain at this facility unless the child stops attending there for more than 30 calendar days. The child may be approved at this same facility again if the only reason the child did not attend for more than 30 calendar days was because of a school break or due to circumstances beyond the control of the family such as illness of the child;

(ii) care is requested for a child living in the same home as a child already approved for care as described in (~~I~~H)(i) of this subsection for the same one star child care provider; or

(iii) the parent or guardian demonstrates there is no other child care option that meets the family's needs.

(8) **Income determination.** Based on OAC 340:40-7, the worker determines who is considered part of the household for income determination, what income is countable, and what income is excluded. After determining the amount of countable household income, the worker uses OKDHS Appendix ~~C-4~~ 08AX005E, Child Care ~~Eligibility/Rates—Schedule~~ Eligibility/Co-payment Chart, to determine whether the household meets income guidelines. The OKDHS Appendix ~~C-4~~ 08AX005E is amended from time to time and the Commission for Human Services must approve any changes. If the income of the family exceeds the eligibility standard on the appendix or is above the income level on the appendix, the family is not eligible for subsidized child care benefits.

(9) **Family share co-payment.** The worker uses OKDHS Appendix ~~C-4~~ 08AX005E to determine the family share co-payment for each family. The family share co-payment is applied before OKDHS pays a child care subsidy. The amounts the family and OKDHS pay toward the cost of care varies depending on the plan of service, family size, income, and the number of children receiving subsidized child care benefits.

(10) **Social services requests.** When a client requests help in meeting the social services needs listed on the application or review form, the worker provides all available information to aid a client in meeting these needs.

(11) **Client rights and responsibilities.** The worker advises the client of rights and responsibilities listed in (A) through (G).

(A) A child care request is only approved back to the date of request when the interview is conducted and verification is provided on that same date.

(B) The client has the right to ask for a fair hearing if the client disagrees with an action taken on his or her case, per OAC 340:2-5.

(C) The provider may charge the client for special fees, such as enrollment or transportation fees, provided these fees are posted and also charged to the general public.

(D) The provider may charge the client for care provided in excess of OKDHS approved child care plan of service hours when the client chooses to leave the child in care longer. If the provider requires that all children in the facility begin care by a certain time of day and the client's child care plan hours start later, the provider must not charge the client for those additional hours. The client swipes attendance based on the child care plan hours.

(E) The provider may charge the client for any days OKDHS refuses to pay for care when:

(i) the client did not swipe attendance for the correct days and times his or her child attended child care;

(ii) swipes were denied and the client did not get them corrected within ten calendar days; or

(iii) the provider loses the absent day payment for a child approved for a weekly unit type because the client did not swipe correct attendance for every day the child attended that month.

(F) The provider may not charge the client for:

(i) days and hours covered in the child care plan when all attendance was correctly swiped even if the hours are more than customary for a full-time day; and

(ii) days the child is not in attendance.

(G) The client is required to cooperate with the OKDHS Office of Inspector General in any audit or investigation of possible overpayments by the client or by the client's chosen provider.

SUBCHAPTER 7. ELIGIBILITY

340:40-7-1. Categories of eligibility

A person may be predetermined eligible for a child care benefit, determined income eligible based on the gross income of the household, or have dual eligibility with his or her tribe.

(1) **Predetermined eligible.** A person is predetermined eligible for a child care benefit with a zero co-payment when he or she is a recipient of public assistance or Supplemental Security Income (SSI). Public assistance is defined as a State Supplemental Payment, Temporary Assistance for Needy Families (TANF) that includes Supported Permanency and non-cash vouchers a child receives from the TANF program, or Refugee Cash Assistance.

(A) All TANF recipients who go to work and are eligible for a child care benefit can choose to receive a child care benefit through the Oklahoma Department of Human Services (OKDHS) while they work or choose to pay for the child care themselves. If they choose to pay for the child care cost themselves, it can be considered as an earned income exemption for the TANF benefit.

(B) Exceptions to a person being eligible with a zero co-payment when he or she receives public assistance or SSI include:

(i) when the recipient is a child and the parent or guardian requesting the benefit for the child is not the payee on the public assistance or SSI payment; or

(ii) when it makes a difference in whether other children in the household are income eligible for child care.

(2) **Income eligible.** Households who are not predetermined eligible for a child care benefit must meet income eligibility guidelines shown on OKDHS Appendix ~~C-4~~ 08AX005E, Child Care ~~Eligibility/Rates Schedule~~ Eligibility/Co-payment Chart, for their household size, to receive assistance with child care costs.

(3) **Transitional child care.** Per Section 230.61 of Title 56 of the Oklahoma Statutes, a TANF recipient who becomes employed is eligible for transitional child care benefits for 24 months following the date of employment as long as he or she meets income eligibility guidelines on OKDHS Appendix ~~C-4~~ 08AX005E for his or her household size unless:

(A) the employer provides child care benefits; or

(B) the monthly salary received from the employer exceeds the monthly allowance of assistance pursuant to the TANF program plus the cost of child care and medical insurance to which the recipient would be entitled.

(4) **TANF families in the Work Supplementation Program.** TANF families in the Work Supplementation Program are considered income eligible families and must meet income eligibility guidelines shown on OKDHS Appendix ~~C-4~~ 08AX005E for their household size, to receive assistance with child care costs.

(5) **Dual eligibility.** An individual may have dual eligibility for both the child care subsidy program through OKDHS and through his or her tribe. The child care provider may not receive payment for the same service from both programs simultaneously. ~~The client may be approved for the child care subsidy program and the tribe may pay the client's family share co-payment.~~

340:40-7-5. Resources, residence, and citizenship

(a) Resources are not considered in determining eligibility for subsidized child care.

(b) A parent or caretaker's statement that he or she lives in Oklahoma meets the residence requirement for child care.

(c) Only the child(ren) for whom child care is requested must meet the citizenship and alienage requirements listed in OAC 340:10-15. For eligible children age 14 or older, see OAC 340:65-3-1 for additional citizenship requirements.

340:40-7-8. Defining the need factor for child care benefits

(a) **Employment.** Employment means the parent or the caretaker earns wages for work performed.

(1) The client must provide proof of his or her work hours. If the client has the flexibility to set his or her own work hours, the client and worker jointly determine if they can reduce the number of hours the child needs care by rearranging the client's work schedule. This is especially important in two-parent or two-caretaker families.

(2) The worker limits approval of child care to the number of days and hours the client is working plus reasonable travel time. In two-parent or two-caretaker working families, the worker limits approval to the days and hours they are both working at the same time plus reasonable travel time. If the child attends school or Head Start during part of the work hours, the worker reduces the number of hours he or she approves child care accordingly.

(3) If the parent or caretaker is not making at least minimum wage for the number of hours he or she is working, the worker may limit the number of days and hours of care initially approved. The worker counsels with the individual regarding increasing his or her income. If counseling is unsuccessful, the worker decides whether to further reduce or terminate the subsidized child care benefits.

(4) A person employed and working from his or her own home may be approved for subsidized child care benefits in an out-of-home child care home or center.

(5) Subsidized child care benefits can be approved for sleep time during the day when a parent or caretaker works night hours and a feasible alternative is used at no cost to the Oklahoma Department of Human Services (OKDHS) during the night working hours. Night working hours is defined as the hours between 11:00 p.m. and 7:00 a.m. The maximum amount of time the worker approves child care is to allow the client eight hours of sleep plus travel time to and from the child care provider. In two-parent or two- caretaker families care can only be approved for this reason when both parents have night time jobs or when one parent has a night time job and the other parent or caretaker works during the day while the other parent is sleeping.

(6) Job search meets the definition of employment and child care may be approved only when a recipient who has received subsidized child care benefits for at least 30 calendar days loses employment or successfully completes a formal education or training program and requests child care to look for a job. Child care may be approved for a maximum of 30 calendar days from the date the client loses employment or successfully completes a formal education or training program as long as the child continues to attend the same child care facility. Job search may be approved no more than twice per calendar year. The client must have been employed or going to school for at least 90 calendar days between approval periods.

(b) **Training.** A training program is defined as a course of study that when completed qualifies a person to meet requirements for a job that the client could not have obtained without the certificate of completion, accreditation, or licensure. Child care can be approved for one parent or caretaker to attend a training program. However, in two-parent or two-caretaker families, the other parent or caretaker must be employed during the same hours.

(1) The training program must qualify to receive federal financial aid from the United States Department of Education (USDE) or other federal or state education funds.

(2) Prior to approval for child care, the client must provide proof of enrollment, the days and hours the client will be attending, and when he or she is expected to complete the program.

(3) The program must require classroom attendance on a school campus with an instructor present. Care is only approved for an on-line Internet based course or televised course if it is a live broadcast conducted by an instructor and attendance is required while the program is being broadcast. If the program is self-paced and can be completed whenever the client chooses, care is not approved.

(4) The client must provide proof of progress when requested. If the client is not making satisfactory progress, further child care for this reason is not approved.

(5) Once the client completes a training program, further child care is not approved for training or education. The client is expected to look for jobs that require his or her training credentials. The client may be eligible for subsidized child care benefits to job search if he or she meets requirements at (a)(6) of this Section.

(6) In certain circumstances, the worker may approve child care benefits for a client to attend a second training program. The client must first have been employed in a job that required the training credentials he or she already has for at least 12 months. Possible circumstances include when:

(A) the client can no longer perform the job he or she is trained to do because of physical or mental health reasons. In this instance, the client must provide a statement from a doctor, mental health professional, or a vocational rehabilitation professional that verifies the reason. The professional must also state that the client is capable of performing the job tasks of the training program in which the client wants to enroll;

(B) there is no longer a demand for the type of work the person is trained to do. The client must provide a statement from a professional working with the client to obtain employment stating there is no demand.

The professional must be employed by the Workforce Oklahoma Center, a Workforce Investment Act (WIA) contracted entity, the Oklahoma Employment Security Commission (OESC), or the Oklahoma Department of Rehabilitation Services (DRS); or

(C) the client can establish receipt of the additional training can increase the individual's earning potential. The client must provide proof that the starting salary for a person with the training credentials the client wants to obtain is higher than he or she is currently earning.

(c) **Education program.** An education program can include:

(1) **High school.** Child care can be approved for one or both parents or caretakers to attend high school. It is not approved for a parent or caretaker to receive homebound instruction. Prior to approval the client must provide proof that he or she is enrolled, the days and hours the client is attending, and when he or she is expected to graduate.

(2) **General Educational Development (GED), literacy, or adult basic education (ABE) classes.** The program must require classroom attendance with an instructor present. Child care can be approved for one parent or caretaker to attend GED, literacy, or ABE classes. However, in two-parent or two-caretaker families, the other parent or caretaker must be employed during the same hours.

(A) The client must provide proof of enrollment, the days and hours the client is attending, and the length of the class prior to care being approved. If the class has open enrollment and no established end date, the client must provide proof of how often progress is measured.

(B) Within the first month of classes, the client must provide proof of initial testing showing the client's current educational and/or literacy level.

(C) The worker reviews the client's progress when the class is expected to end prior to approval for further care for this reason. If the class is open-ended, the worker reviews progress no later than 12 months from the date care was approved for this reason. At review, the client must provide a statement from the school that includes:

(i) whether the client is attending regularly;

(ii) whether the client is making satisfactory progress;

(iii) an estimated length of time it will take to complete the program; and

(iv) what days and hours the client is currently attending classes.

(D) If the client has not been attending regularly or making satisfactory progress, further care for this reason is not approved.

(3) **English as a Second Language (ESL) classes.** The program must require classroom attendance with an instructor present. Child care can be approved for a single parent or caretaker to attend ESL classes when the client lacks proficiency in understanding, speaking, reading, or writing the English language. However, in two-parent or two-caretaker families, the other parent or caretaker must be employed during the same hours.

(A) The client must provide proof of enrollment, the days and hours the client is attending, and the length of the class prior to care being approved. If the class has open enrollment and no established end date, the client must provide proof of how often progress is measured.

(B) The worker reviews the client's progress when the class is expected to end prior to approval for further care for this reason. If the class is open-ended, the worker reviews progress no later than 12 months from the date care was approved for this reason. The client must provide a statement from the school that includes:

(i) whether the client is attending regularly;

(ii) whether the client is making satisfactory progress;

(iii) an estimated length of time it will take to complete the program; and

(iv) what days and hours the client is currently attending.

(C) If the client has not been attending regularly or making satisfactory progress, further care for this reason is not approved.

(4) **Formal education program.** A formal education program is defined as a course of study that leads to the attainment of an associate's or bachelor's degree. Child care can be approved for one parent or caretaker to attend a formal education program. However, in two-parent or two-caretaker families, the other parent or caretaker must be employed during the same hours.

(A) The formal education program must qualify to receive federal financial aid from USDE or other federal or state education funds.

(B) Prior to approval for child care, the client must provide proof of enrollment, the days and hours the client is attending, and when he or she is expected to complete the degree.

(C) The degree program must require classroom attendance on the school campus with an instructor present. Care is only approved for an on-line Internet based course or a televised course if it is a live broadcast conducted by an instructor and attendance is required while the program is being broadcast. If the program is self-paced and can be completed whenever the client chooses, care is not approved.

(D) The client must provide proof of progress when requested. If the client is not making satisfactory progress, further care for this reason is not approved.

(E) Once the client completes a bachelor's degree, further care is not approved for training or education. The client is expected to look for jobs that require a degree. The client may be eligible for subsidized child care benefits to job search if he or she meets requirements at (a)(6) of this Section.

(F) In certain circumstances, the worker may approve subsidized child care benefits for a client to obtain a different bachelor's degree. The client must first have been employed in a job that required the degree he or she already has for at least 12 months. Possible circumstances include when:

(i) the client can no longer perform the job he or she is trained to do because of physical or mental health reasons. In this instance, the client must provide a statement from a doctor, mental health professional, or a vocational rehabilitation professional that verifies the reason. The professional must also state that the client is capable of performing the job tasks of the degree program in which the client wants to enroll;

(ii) there is no longer a demand for the type of work the person is trained to do. The client must provide a statement from a professional working with the client to obtain employment stating there is no demand. The professional must be employed by the Workforce Oklahoma Center, a WIA contracted entity, OESC, or DRS; or

(iii) the client can establish receipt of the second degree can increase the individual's earning potential. The client must provide proof that the starting salary for a person with the degree the client wants to obtain is higher than he or she is currently earning.

(d) **Temporary Assistance for Needy Families (TANF) Work activity.** When a client receives a TANF benefit, subsidized child care benefits may be provided for any activity outlined on the client's Form ~~TW 2~~ 08TW002E, TANF Work/Personal Responsibility Agreement, in accordance with OAC 340:10-2-1.

(1) Need for child care is also met when the individual is waiting to enter an approved TANF Work activity. Approval is limited to a time period not to exceed:

(A) two weeks; or

(B) one month on an exception basis where child care arrangements or other services would otherwise be lost and the subsequent activity is scheduled to begin within that period.

(2) TANF applicants referred for immediate employment may be approved for subsidized child care benefits to job search. TANF applicants are advised:

(A) child care to job search is limited to 20 days which must be used within 30 calendar days from the date of request;

(B) in-home child care arrangements are not available for TANF applicants;

(C) child care may only be used during the times the applicant is actually looking for a job; and

(D) he or she must notify the worker immediately upon securing employment.

(e) **Protective or preventive child care.** Subsidized protective or preventive child care benefits can be used as an early intervention strategy in certain critical situations to help in preventing neglect, abuse, or exploitation of a child. The worker may approve child care in these situations to help stabilize the family situation or to enhance family functioning. In most instances, Child Welfare (CW) staff complete protective or preventive child care requests when they are working with the family and recommending protective or preventive child care. When CW staff contract with an outside agency to provide protective or preventive services and child care is recommended, Family Support Services (FSS) staff complete these child care requests with the help of the contracted agency staff.

(1) Subsidized protective or preventive child care benefits are temporary and planning to reduce or eliminate the need for such child care begins at the initial contact.

(2) The worker must complete a face-to-face interview with the client prior to approving subsidized protective or preventive child care benefits in order to better assess all of the service needs of the family.

(3) The client must provide a statement from a professional working with the family stating:

(A) the reason child care is recommended;

(B) how placing the child in a child care facility helps to prevent neglect, abuse, or exploitation of the child; and

(C) the length of time this care is expected to be needed.

(4) The family may or may not be expected to help in paying the cost of these subsidized child care benefits depending on the unique circumstances of the family.

(5) In certain circumstances, families who are financially ineligible for subsidized child care benefits may be approved for protective or preventive child care benefits when the child is in danger of neglect, abuse, or exploitation. The client must provide evidence the family is so burdened by debt that the additional financial pressure of paying for child care may result in further deterioration of family stability and functioning. The client must also provide a plan for reducing his or her debt.

(6) The worker may approve subsidized protective or preventive child care benefits for a maximum of 30 calendar days. If determining ongoing eligibility will take time, the worker may approve child care while the parent or caretaker is gathering necessary information during this 30 calendar day period.

(7) If the family requests subsidized protective or preventive child care benefits beyond this initial 30 calendar day period, the worker sends a memo and supporting documentation to the Family Support Services Division (FSSD) Child Care Section to request an extension. The client must provide all needed eligibility information prior to submission of the extension request.

(f) **Enrichment.** The purpose of subsidized enrichment child care benefits is to assist a child receiving Supplemental Security Income (SSI) to develop socialization skills and to transition into a group setting such as a classroom. If a child is not receiving SSI benefits, the child is not eligible for subsidized enrichment child care benefits.

(1) The need for subsidized enrichment child care benefits is based solely on the needs of the child's condition of

delay or disability rather than on the activities of the parent or caretaker.

(2) Child care for enrichment is limited to a maximum of two days per week not to exceed ten full-time or part-time days per month.

(3) The parent or caretaker must provide a written recommendation from a professional who is working directly with the child in some capacity that states how child care would be beneficial to the child. The professional could be the child's doctor, occupational therapist, physical therapist, or special education teacher.

(4) Unless special circumstances exist, subsidized enrichment child care is only approved for children who have not yet started school or Head Start.

(5) When subsidized enrichment child care benefits are approved, care must be provided outside of the child's home and at least one other child must be attending during the same hours.

(6) The worker obtains approval from staff in the FSSD Health Related and Medical Services Section prior to authorizing care for this need factor in accordance with OAC 340:70-8-1.

340:40-7-9. Mandatory pursuit of child support and other potential income

(a) **Mandatory referral to the Child Support Enforcement Division (CSED).** When one or both of the child's parents are absent from the home, the client must agree to pursue child support through CSED for all children ~~that~~ who must be included in the same household in accordance with OAC 340:40-7-6 before subsidized child care benefits are approved.

(1) **When a CSED referral is required.** The client is required to pursue child support for all children living in the home for which one or both parents are absent unless good cause exists as described at paragraph (2) or (6) of this subsection. This includes when:

(A) the parent or caretaker is not requesting subsidized child care benefits for ~~that~~ every child living in the home~~,~~;

(B) the client is ~~currently~~ already receiving court-ordered child support~~,~~;

(C) there is a joint custody agreement and neither parent is ordered to pay support~~,~~;

(D) parental rights have been terminated except in the case of adoption per Section 7006-1.3 of Title 10 of the Oklahoma Statutes;

(E) an additional child whose parent is absent is added to the household~~,~~ after certification; or

(F) one or both parents leave the home after certification.

(~~1~~2) **When a CSED referral is not required.** The client is not required to complete child support forms when:

(A) he or she is a foster parent to the child and the CSED referral was completed in the child's SoonerCare (Medicaid) case;

(B) the client is an adoptive parent and provides proof of a single parent adoption;

(C) a parent is temporarily out of the home in accordance with OAC 340:40-7-6(c) and is still considered part of the household;

(D) the child whose parent is absent is not required to be considered part of the household in accordance with OAC 340:40-7-6; or

(E) the client is a minor parent and is not living with his or her own parents. The minor parent must pursue child support for his or her own child but not for himself or herself.

(2) **Required forms.** The worker makes the referral to CSED by completing with the client Form ~~FSS-AP-1-A~~ 08TA001E, Absent Parent (AP) Information Sheet, for each absent parent. The client must sign Form 08TA012E, Cooperation Agreement and Request for Good Cause, as described at paragraph (6) of this subsection. The worker gives ~~Form C-16~~ Appendix 03AX016E, Child Support Services and Responsibilities, to the client. The form explains CSED services and client expectations. Supplemental information sent to the appropriate CSED district office by the worker includes:

(A) a signed and completed Form ~~CSED-1-A~~ 03EN002E, Affidavit of Child Support Payments Received;

(B) a signed and completed Form ~~CSED-1-B~~ 03PA001E, Mother's Affidavit of Paternity. This form is only completed if the mother is applying for subsidized child care benefits and paternity has not been established; and

(C) copies of any legal documents concerning custody or child support.

(3) **Centralized Support Registry (CSR).** After the worker approves the client for subsidized child care benefits, all future child support payments must be made to the CSR. ~~Form C-16~~ Appendix 03AX016E contains the address for the CSR.

~~(4) **Termination of parental rights.** The termination of parental rights does not eliminate the obligation of either parent to provide financial support for his or her minor child. Per Section 7006-1.3 of Title 10 of the Oklahoma Statutes, termination of parental rights affects the parent's rights, not his or her responsibility to support the child except in the case of adoption. An adoptive parent's legal obligation continues even if a child is returned to the care of the natural parent.~~

(~~5~~4) **Establishment of paternity.** If paternity has not yet been established, the worker discusses the voluntary acknowledgment of paternity process with the alleged father when he is located. If the alleged father admits paternity, the worker secures the alleged father's and the mother's signature on Form ~~CSED-209~~ 03PA209E, ~~Affidavit Acknowledging~~ Acknowledgment of Paternity, per instructions under the Notice of Rights and Responsibilities on the form.

(~~6~~5) **Good cause.** Although the client's cooperation in the pursuit of child support through CSED is required as a condition of eligibility for child care, good cause for

refusal to cooperate may be granted when such cooperation is not in the best interest of the child. The Oklahoma Department of Human Services (OKDHS) may determine that child support activities can be safely conducted without the cooperation of the client.

(A) The client must sign Form ~~C-9~~ 03TA012E, Cooperation Agreement and Request for Good Cause, at the time of the initial application, at the time of an additional child request, or when circumstances result in an applicant or recipient's request for good cause. The worker does not deny, delay, or discontinue subsidized child care benefits pending a determination of good cause for refusal to cooperate if the applicant or recipient has complied with the requirements to furnish evidence or information.

(B) OKDHS determines that the client has good cause for refusing to cooperate only if:

(i) there is possible physical or emotional harm to the child;

(ii) there is possible physical or emotional harm to the parent or caretaker;

(iii) the child was conceived as a result of incest or forcible rape;

(iv) legal proceedings for adoption of the child are pending before a court; or

(v) the client is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption.

(C) It is the responsibility of the applicant or recipient who makes a claim for good cause to supply documentary evidence to establish the claim, or to furnish sufficient information to permit OKDHS to investigate the circumstances of good cause for refusing to cooperate. Uncorroborated statements of the applicant or recipient are not acceptable documentation. The evidence must be of probative value and supported by written statements to the extent possible. Examples of acceptable written statements include:

(i) birth certificate or medical or law enforcement records which indicate that the child was conceived as a result of incest or forcible rape;

(ii) court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;

(iii) criminal, medical, child protective services, social services, psychological, or law enforcement records indicating that the putative or absent parent might inflict physical or emotional harm on the child or caretaker;

(iv) medical records indicating the emotional health history and present emotional health status of the caretaker or child, or a written statement from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the caretaker or child;

(v) a written statement from a public or licensed private social agency that the applicant or recipient is being assisted by OKDHS to resolve the issue of whether to keep the child or relinquish the child for adoption; and

(vi) sworn statements from individuals other than the client with knowledge of the circumstances which provide the basis for the good cause claim.

(D) Upon request, the worker assists the client in obtaining evidence that is not reasonably obtainable. This requirement is limited to the specific documentary evidence in (C)(i) through (vi) of this subsection. The client must specify the type of document or record needed, as well as provide sufficient identifying information to make it possible to be obtained.

~~(E) Under limited conditions the parent of a child removed from the home by a custody order may be exempt from the required referral to the CSED district office as a condition of the child's eligibility. This can occur when the judge from the juvenile court states that no child support is to be pursued.~~

(b) **Failure to cooperate in the pursuit of child support.** Failure to cooperate in pursuit of child support without good cause may be indicated at the time of application or at any time further action by the client is necessary.

(1) Actions indicating failure to cooperate include refusals to:

(A) identify and assist in locating a known parent;

(B) establish paternity; or

(C) establish, modify, or enforce a support order.

(2) When the worker is informed by CSED that the client is not cooperating, the worker closes or denies the subsidized child care benefits for all children included in the child care benefits effective ten calendar days from the date action is taken.

(c) **Cooperation with CSED following closure of the subsidized child care benefits.** The client must verify that he or she is cooperating with CSED before subsidized child care benefits can be approved again.

(1) If the client cooperates with CSED within 30 calendar days of the closure of the subsidized child care benefits and the worker is notified of this cooperation within this time frame, the worker can reopen the benefits back to the date they closed without imposing a penalty period.

(2) If the client does not ~~to~~ cooperate with CSED or waits to ~~informs~~ inform the worker of this cooperation for more than 30 calendar days from the date the subsidized child care benefits closed, the client must complete a new application before care can be approved. The earliest date subsidized child care benefits can be approved is the date the client completes a child care interview and provides all necessary verification in accordance with OAC 340:40-3-1.

(d) **Exploration and development of potential income other than child support.** The worker explores all other potential sources of income such as Social Security benefits, Supplemental Security Income (SSI), unemployment benefits, veterans benefits, and increased wages at the time of application and at each review for all members of the household

whose income must be considered in accordance with OAC 340:40-7-6. The client must apply for or continue to pursue all potential sources of income for which it appears likely he or she may be eligible except for SSI. The client is encouraged but not required to apply for SSI when the client indicates that a household member has a disability. The worker gives the client 90 calendar days from the date potential income is identified to pursue such income.

(1) If the client refuses to pursue available income at the time of request, the worker denies the child care request.

(2) If the client agrees to pursue all potential income and then fails to do so, the worker closes subsidized child care benefits effective ten calendar days from the date the worker takes action.

(3) If the client is approved for the potential income or offered a raise in pay and refuses to accept it, the worker closes the subsidized child care benefits effective ten calendar days from the date the worker takes action.

(4) If the client's pay is decreased either in rate of pay or number of hours worked, the worker explores why the decrease occurred. If the client requested the decrease to avoid a family share co-payment increase or to maintain eligibility for the subsidized child care benefits, the worker closes the subsidized child care benefits.

(5) At each review, the worker determines whether the client continues to pursue potential income.

(A) If the client begins receiving previously identified potential income, the worker considers the income for the next negative action deadline after it is reported.

(B) If the client was determined not eligible for the income, the client must verify this. The worker records in the case record the verification provided and stops exploring this potential income with the client.

(C) If the client stops pursuing the income and was not determined ineligible for it, the worker closes the client's child care benefit for failure to cooperate effective ten calendar days from the date the worker takes action.

(6) If the client's subsidized child care benefits were closed because of failure to cooperate, the client must verify receipt or pursuit of such income or that such income is no longer potentially available before child care can be approved.

(A) If the client verifies cooperation within 30 calendar days of the closure of subsidized child care benefits, the worker can reopen the benefits back to the date they were closed without imposing a penalty.

(B) If the client does not cooperate or waits to verify cooperation for more than 30 calendar days from the date the subsidized child care benefits close, the client must complete a new application before care is approved. The earliest date subsidized child care benefits can be approved is the date the client completes a child care interview and provides all necessary verification in accordance with OAC 340:40-3-1.

340:40-7-10. General provisions regarding income

(a) All available income, except that required to be disregarded by law or Oklahoma Department of Human Services (OKDHS) policy, is taken into consideration in determining a client's eligibility for child care services.

(b) The client must report all sources of income at the time of application.

(c) Income from a new source is considered available after it has actually been received. Anticipated income from a new source is never considered until it is actually in hand and under the control of the individual.

(d) Past income is not used to anticipate future income for any month in which a change in income has occurred or employment has been terminated.

(e) The client must report any changes in the amount or source of income within ten days of the date the change occurs. Income changes reported timely are considered available for the next effective date shown on OKDHS Appendix ~~B-2~~ 08AX002E, Deadlines for Case Actions.

(f) When an individual's income is reduced due to garnishment, the gross amount before the garnishment is counted as income.

(g) Payments not considered as income are:

(1) monies withheld from any income source to repay a prior overpayment received from that same source;

(2) monies voluntarily or involuntarily returned to repay a prior overpayment received from that same income source; or

(3) child support payments received by Temporary Assistance for Needy Families (TANF) recipients which must be sent to the Child Support Enforcement Division to maintain TANF eligibility.

(h) Monies withheld or returned to repay overpayments in federal, state, or local means tested assistance programs are not excluded when they are withheld or returned to repay overpayments resulting from intentional program violation as established by the agency administering the program.

340:40-7-13. Computation of income

(a) Any income from an ongoing source that is received regularly but in amounts that vary, or income received irregularly, is averaged over a minimum of 30 days unless the client has received ~~less~~ fewer than 30 days of representative income. This includes overtime pay, irregular child support, and other occasional increases or decreases in the monthly gross income. When income is received more often than once per month, the income is converted to a monthly amount.

(b) Income of the applicant or recipient is verified by the best available information. With new employment, the worker verifies the beginning date, date the first full paycheck is expected to be received, hourly rate, and anticipated number of hours per week.

(c) All earned and unearned income is added together to arrive at the gross income for the household.

(d) Once gross income is computed, the only allowable deduction from gross income is for the amount of any verified legally-binding child support payments paid by a household member to or for a non-household member, including child

support and child care support payments made to a third party on behalf of the non-household member.

(e) The worker uses Oklahoma Department of Human Services (OKDHS) Appendix ~~C-4~~ 08AX005E, Child Care ~~Eligibility/Rates Schedule~~ Eligibility/Co-payment Chart to determine whether the household meets income guidelines. See OAC 340:40-5-1(8).

SUBCHAPTER 9. PROCEDURES RELATING TO CASE CHANGES

340:40-9-1. Review of child care eligibility

(a) **Child care review.** The worker completes a review of all conditions of eligibility for subsidized child care benefits no later than 12 months from the date of approval of the application or from the last review. When the need factor for child care is for a protective or preventive reason, child care is reviewed more often in accordance with OAC 340:40-7-8(e). The client or the client's authorized representative completes and signs Form 08MP001E, ~~Comprehensive Application and Review, or Form 08CC002E, Application for Child Care Services~~ Request for Benefits, Form 08MP002E, Eligibility Information for Benefits, and Form 08MP003E, Responsibilities and Signature for Benefits. If the client is a benefit reporter as described in subsection (b) of this Section, Form 08MP004E, Benefit Review Report, may also be used as a review form for subsidized child care benefits. When circumstances change between review months, the worker evaluates whether to make a change to the client's family share co-payment and/or plan of service or to complete ~~Form 08MP001E or 08CC002E~~ a new application.

(b) **Benefit reporter households.** If a client receiving subsidized child care benefits is also receiving food benefits and/or Medicaid and is considered a benefit reporter for one or both of these programs, the client is considered a benefit reporter for the Child Care Program.

(1) Benefit reporter households are sent a computer-generated Form 08MP004E in the ~~fifth or the~~ 11th month of certification ~~depending on whether the client is a semi-annual or an annual reporter for the other program~~. The client will continue to receive a 08MP004E every ~~fifth or~~ 11th month thereafter as long as the subsidized child care benefits remain active and the client remains in benefit reporting status.

(2) Form 08MP004E asks households to report changes in the household's circumstances that could affect their benefits. Form 08MP004E must be completed and returned to the human services center, along with all required verification, by the last day of the ~~sixth or~~ 12th month of the review period or the subsidized child care benefits automatically close.

(3) If the household fails to provide sufficient information regarding a deductible expense, continued eligibility is determined without regard to the deduction.

(4) The worker must act on any changes reported on ~~the~~ Form 08MP004E in a timely manner.

(c) **Synchronization of benefits.** When the client is receiving other benefits from the Oklahoma Department of Human Services (OKDHS) in addition to the subsidized child care benefits, certification and review dates must be coordinated with the other programs.

340:40-9-2. Case changes

(a) **Case changes.** The client must report within ten calendar days any changes in his or her circumstances that would result in an increase or decrease in subsidized child care benefits. The worker acts on changes that increase or decrease the subsidized child care benefits regardless of whether the client is a semi-annual reporter or not. Failure to report changes timely may result in an overpayment assessment against the client. Examples of changes the client must report include:

(1) household income;

(2) household composition;

(3) names and number of household members in child care;

(4) the reason child care is needed;

(5) parent's or caretaker's work or school schedule or any other change affecting the days and hours child care is needed;

(6) the client's address or telephone number;

(7) the child care facility the child is attending;

(8) child care is no longer being used or needed; and

(9) family size.

(b) **Additional child request.** When an additional child requires subsidized child care benefits, the worker completes the request within two working days of the client providing all necessary verification to determine eligibility. If eligible, the child can be approved for subsidized child care benefits beginning with the date of request. Family share co-payment increases due to adding an additional child to the subsidized child care benefits are effective the month after the month the client requests subsidized child care benefits for that child.

(c) **Changes that increase the subsidized child care benefits.** When the client reports a change timely that increases the subsidized child care benefits, the client and the worker jointly plan the effective date of the change. When the client does not report changes timely, the earliest date the worker increases the subsidized child care benefits is the first day of the month in which the client reports the change.

(d) **Changes that decrease the subsidized child care benefits.** When possible, the worker plans with the client changes that decrease the subsidized child care benefits before implementing the change. When the client reports an increase in income, the worker uses Oklahoma Department of Human Services (OKDHS) Appendix ~~C-4~~ 08AX005E, Child Care ~~Eligibility/Rates Schedule~~ Eligibility/Co-payment Chart, to determine whether the household meets income guidelines in accordance with OAC 340:40-5-1(8).

(e) **Change in provider.** When a client reports a change in provider, the change is effective the date the change in provider occurs, regardless of whether or not the client reports this change timely. The worker completes provider changes within two working days of the date the client reports the change.

(f) **Closure of the subsidized child care benefits.** When advance notice is required, the worker closes the subsidized child care benefits ten days from the date action is taken. Ten day advance notice is not required when the client gives written permission agreeing to an earlier closure date.

(g) **Reopen action.** When a client's subsidized child care benefits close, they can be reopened using current eligibility information if policy and procedures were not administered correctly or if human services center staff receive new or additional information within 30 calendar days of the effective date the benefits terminated that shows the family continues to be eligible. The client must complete a new application when:

(1) a 30 calendar day period of job search was given because the client lost his or her job or successfully completed school and the subsidized child care benefits were closed;

(2) expedited eligibility processing is used and requested verification is not returned within 30 calendar days of the application date. See OAC 340:40-3-1(b); or

(3) the payee for the child care case changes.

SUBCHAPTER 10. ELECTRONIC BENEFIT TRANSFER (EBT) SYSTEM FOR CHILD CARE

340:40-10-4. Child care electronic benefit transfer (EBT) payment process

(a) **Child care payments.** The Oklahoma Department of Human Services (OKDHS) makes payments for child care services to providers electronically using the EBT system unless the provider is an in-home provider or a provider on a military base. These providers are paid manually via the EBT system after submitting Form 10AD121E, Child Care ~~Claims~~ Claim.

(b) **Point-of-service (POS) machines.** Contracted child care providers are issued a POS machine within ten days of the date the worker authorizes care for a child and the provider notifies the OKDHS contractor that he or she is beginning to care for a child eligible for an OKDHS subsidy.

(c) **Attendance swiping.** Clients record actual times their child attends child care by swiping an EBT card through the POS machine. Providers can charge clients for care provided on days they fail to bring their EBT card or when the machine message shows care is denied. If care is later approved for that date(s), the provider must reimburse the client for any care paid for by the client above the family share co-payment.

(1) Providers must monitor the POS machine to ensure correct attendance times are recorded. If incorrect times are recorded, the provider can void the incorrect transaction and ask the client to start over.

(2) When clients forget to swipe their EBT card for a day their child attends care, record incorrect times that are voided by the provider, or receive a denied error message, the system allows the client to swipe previous in and out times for the current day and the previous nine days.

(3) Based on attendance recorded and the level of care authorized, electronic settlements to providers are made weekly.

(d) **EBT payment week.** The EBT payment week begins every Sunday at 12:01 A.M. and ends every Saturday at midnight. Electronic settlements are made each week in the provider's designated financial institution account on Tuesday morning for services provided two weeks prior to the current week. If the financial institution is closed on Monday or Tuesday or Monday is a holiday, the electronic settlement is deposited on Wednesday morning.

(e) **Manual claims process.** When the provider reports he or she was not paid correctly, he or she can submit Form 10AD121E or ask the client's worker to submit Form 10EB004E, Report of EBT Child Care Payment Adjustments, to the Finance Division for a manual adjustment. The provider waits to submit Form 10AD121E until approximately the 20th of the next month. Finance Division staff evaluate whether to adjust payment to the provider based on why care was not paid electronically.

(1) If the client did not attempt to record attendance electronically, no payment is made to the provider for days swipes are not recorded unless extenuating circumstances beyond the client's and/or provider's control exist. These extenuating circumstances must be documented on Form 10AD121E.

(2) If the client swiped correct attendance times but swipes were denied in error, Finance Division staff ~~make~~ makes manual adjustments.

(3) If the family share co-payment applied by the EBT system was incorrect, Finance Division staff ~~make~~ makes manual adjustments.

(4) If the provider was paid the wrong rate either because of incorrect coding of the child care plan, an incorrect birth date shown for a child, or an incorrect star status paid, Finance Division staff ~~make~~ makes manual adjustments.

(f) **Absent day payments.** Providers can be paid an absent day payment for a child who misses some days of scheduled attendance and is authorized for a weekly unit type. An absent day payment is electronically deposited in the provider's account in their weekly settlement received after the tenth of the month following the month care was given. To be eligible to receive this additional payment, the child must be approved for a weekly unit type and attend the minimum number of full-time days shown on OKDHS Appendix ~~C-4-B~~ 08AX006E, ~~Weekly Unit Type Guidelines~~ Child Care Provider Rate Schedule, for that month. The provider is not eligible for an absent day payment if the child did not attend the minimum number of full-time days for that calendar month or attended the maximum days paid that is also shown on OKDHS Appendix ~~C-4-B~~ 08AX006E. ~~The formulas used to determine the minimum number of days the child must attend to qualify for an absent day payment are:~~

~~(1) three-day work week equals the number of days in the individual month minus the greater number of days for four days per week minus three;~~

~~(2) four-day work week equals the number of days in the individual month minus the greater number of days for three days per week minus four;~~

~~(3) five-day week equals the number of days in the individual month minus the greater number of days for two days per week minus five;~~
~~(4) six-day week equals the number of days in the individual month minus the greater number of days for one day per week minus five; or~~
~~(5) seven-day week equals the number of days in the individual month minus five.~~

SUBCHAPTER 13. CHILD CARE RATES AND PROVIDER ISSUES

340:40-13-3. Child care payments and rates

(a) The Oklahoma Department of Human Services (OKDHS) contracts to purchase out-of-home child care services for children only with licensed providers who:
(1) post rates and fees;
(2) sign and comply with all the terms of Form 08CC001E, Child Care Provider Contract;
(3) have participated in mandatory contract training; and
(4) have access to an account at a financial institution for electronic benefit transfer (EBT) purposes.
(b) In accordance with Section 85.44B of Title 74 of the Oklahoma Statutes, OKDHS cannot make advance payments to child care providers.
(c) The rates paid by OKDHS are determined by:
(1) the child's age;
(2) settings in which the care is provided:
(A) the child's own home;
(B) a child care center; or
(C) a child care home;
(3) whether the child has disabilities and the provider is approved for the special needs rate unit type. The special needs rate is added to the applicable rate a child care provider receives for a typical child of the same age after the Form 08AD006E, Certification for Special Needs Child Care Rate, approval process is followed;
(4) whether the care is provided full-time, over four hours per day or part-time, four hours or ~~less~~ fewer per day;
(5) whether the worker approves a full-time daily, part-time daily, a combination of full-time and part-time daily, blended, or a weekly unit type;
(6) the county in which the provider is located; and
(7) whether the facility qualifies for a differential quality rate.
(d) The in-home child care rate is paid for children cared for in their own homes. The in-home rate is 90% of the one star child care home daily rate shown on OKDHS Appendix ~~C-4~~ 08AX006E, Child Care ~~Eligibility/ Rates~~ Provider Rate Schedule, for the child's age. If a child is eligible for the severe or moderate special needs rate, this additional amount is added to the applicable in-home rate for that child.
(e) When the child is cared for in an out-of-home child care center or home, the allowable rate is the amount as shown on OKDHS Appendix ~~C-4~~ 08AX006E.
(f) Care may only be authorized at one facility per day per child. If the client uses care at two different providers for the same day for the same child, OKDHS staff approves care at only one of the facilities. The parent or caretaker can use care at two different providers for the same child when care is needed on different days of the week.
(g) Charges are authorized and payment is made only when the care provided is in accordance with the jointly developed plan of service between the client and OKDHS.
(h) Age-driven rate changes are effective the first of the month following the child's birth date except as shown in (i) of this Section.
(i) Eligibility for a child stops the day before:
(1) a typical child reaches age 13; or
(2) a child with disabilities or a child in OKDHS custody reaches age 19.
(j) A change to add the higher special needs rate to the applicable daily rate is effective the first of the month following the month eligibility for this rate is determined.
(k) A child care provider may be approved for a differential quality rate if he or she meets the criteria for this rate. This rate is given effective the first of the month following the month ~~Division of Child Care (DCC)~~ Oklahoma Child Care Services (OCCS) licensing staff approves the provider for the rate. The rate is designated on OKDHS Appendix ~~C-4~~ 08AX006E by its star status.
(l) The traditional school year blended rate may be approved for children age four and older from August 16th through May 15th each year for children attending public school, a pre-kindergarten program, or Head Start during the traditional school year. The extended school year blended rate may be approved for the full calendar year when children attend school the entire year.

340:40-13-5. Child care provider contracts

(a) **Criteria.** In order for the Oklahoma Department of Human Services (OKDHS) to purchase out-of-home child care services, a provider must have a current Form 08CC001E, Child Care Provider Contract, signed by both the owner of the facility and the OKDHS Director or designee on file with the Family Support Services Division (FSSD) Child Care Section. OKDHS assures all persons that OKDHS or any provider of contractual services, does not take into account a person's race, color, religion, sex, national origin, or disability in the selection or eligibility of individuals to receive services and in the manner of providing them. Age may be a factor only to the extent that certain services are designed for a particular age group.
(1) Written complaints of noncompliance with the assurance in (a) of this Section may be made to the Director of OKDHS or to the Secretary of Health and Human Services, Washington, D.C. 20201.
(2) Local ~~Division of Child Care (DCC)~~ Oklahoma Child Care Services (OCCS) licensing staff provide initial information about contracts for child care facilities. The provider contacts the child care liaison to request a contract.
(3) Child care contracts are valid for a maximum of one year. They are automatically renewed for successive one

year terms, under the same terms and conditions, unless either the child care provider or OKDHS gives written notice of its intent not to renew to the other party at least 30 calendar days prior to the expiration of the current term.

(b) **Procedure for obtaining child care contracts.** ~~OKDHS contracts only with licensed or permitted out-of-home~~ Out-of-home providers may only obtain an OKDHS contract if they are licensed or on permit. A child care center provider requesting an initial contract must be licensed or permitted and have a one plus, two, or three star status before signing Form 08CC001E. A one star child care home provider requesting an initial contract must be licensed; not on permit, before signing Form 08CC001E. A child care home provider at one plus, two, or three star status requesting an initial contract must be licensed or permitted before signing Form 08CC001E. The procedures in (1) through (8) of this subsection are used to obtain child care contracts.

(1) ~~DCC~~ OCCS licensing staff give the child care provider a promotional flyer containing information about contracting with OKDHS. The provider is instructed to contact the child care liaison for training and review of the contracting requirements.

(2) When contacted by the owner or director of a child care facility, the child care liaison explains that the owner must review the "Contracting with DHS for Child Care Subsidy Payments Handbook," ~~and watch a~~ view the required training ~~video~~, and pass the proficiency test before an initial contract is submitted to the FSSD Child Care Section. ~~In-home child care providers must also watch this training video.~~

(A) If the owner of a child care center does not live in Oklahoma, the director of the facility ~~can~~ must also fulfill this requirement.

(B) Child care directors are not required but are highly encouraged to also ~~watch~~ view the required training ~~video~~.

~~(C) The child care liaison arranges an appointment time with the owner or director to watch the training video.~~

(3) If the provider wishes to contract with OKDHS following this training, the child care liaison gives Form 08CC001E to the child care provider after typing all identifying information on the contract. The child care liaison explains that the earliest date a contract is valid is the date of approval by the OKDHS Director or designee.

(4) The owner and director sign the contract before a Notary Public and return the contract to the child care liaison. The owner must also provide proof of his or her identity, a copy of his or her Social Security card, and proof of ownership of the child care business.

(5) The child care liaison sends Form 08CC001E to the FSSD Child Care Section for approval or denial along with:

(A) the Contract Routing Checklist;

(B) a copy of the owner's Social Security card;

(C) proof of ownership;

(D) a copy of the provider's Oklahoma State Bureau of Investigation (OSBI) background investigation report; ~~and~~

(E) a copy of the OSBI background investigation report for the director and/or business manager of a child care center or the spouse of a child care home owner; and

(~~E~~F) proof of the employer identification number (EIN) for a child care center provider.

(6) If the child care provider signs Form 08CC001E but fails to complete other contracting requirements within 30 calendar days, the child care liaison attaches Form 08CC001E to the Contract Routing Checklist and sends it to the FSSD Child Care Section for denial.

(7) If approved, the FSSD Child Care Section staff assign a contract number and send a copy of the signed contract back to the provider.

(8) If denied, the FSSD Child Care Section returns the original contract to the provider with a letter advising the provider OKDHS has decided it is in the best interest of OKDHS not to contract with the provider.

(c) **Out-of-state providers.** OKDHS does not contract with out-of-state child care providers.

(d) **Changes that must be reported.** Form 08CC001E advises child care providers to report to the FSSD Child Care Section the anticipated sale of the business, change of legal business entity, change of location, or plan to stop caring for children no less than 30 calendar days prior to the change occurring. ~~The training video does not need to be viewed as long as the person who signs as owner on the new contract remains the same and he or she already viewed the most recent training video.~~ When the provider fails to report the anticipated change timely and a new contract is needed, a gap may occur in the child care subsidy payment to the provider. A new contract is required in the situations included in (1) through (4).

(1) **Change in facility status.** A change in facility status occurs when a facility changes from a home to a center or a center to a home. A change from a family child care home to a large family child care home does not require a new contract as long as the same license number is used.

(A) When the status of a child care home changes to a child care center, a new license application is required. Prior to signing a new contract, the provider must be issued a license or permit at one plus, two, or three star status.

(B) When the status of a child care center changes to a child care home, a new license application is required. Prior to signing a new contract, the provider must be issued a license or permit at one plus, two, or three star status, or be licensed; not permitted, at one star status.

(2) **Change in ownership for a child care center.** The new owner must meet or be anticipated by ~~DCC~~ OCCS licensing staff to meet one plus, two, or three star status within 30 calendar days before a new contract is signed and submitted to the FSSD Child Care Section.

(3) **Change of location.** When a child care center or home provider changes the location of his or her child care

business, the provider must sign a new license application agreeing to care for children only in the new location and notify FSSD Child Care Section staff of the new location. The provider's license and contract remain open with the same begin date, the same number assigned, and the star status remains the same.

(4) **Change of legal business entity.** The child care provider must complete a new license application and contract when he or she changes his or her legal business entity. Examples of changing legal business entity include changing from a sole proprietor to a corporation, partnership, or limited liability company. The provider must provide proof of ownership.

(A) A child care center provider who was at one plus, two, or three star status under their previous legal business entity can sign and submit Form 08CC001E to the FSSD Child Care Section while the new license application is pending. A child care center provider who was at one star status under the previous legal business entity cannot sign a new contract until attaining one plus, two, or three star status even if a child already receiving child care subsidy benefits is currently in care under their previous legal business entity.

(B) Child care home providers who were at one plus, two, or three star status under their previous legal business entity can sign and submit Form 08CC001E to the FSSD Child Care Section while the new license application is pending. Child care home providers who were at one star status may only sign a new contract once they are licensed; they cannot be in permit status.

(e) **Providing care at a different site than is authorized.** When the child care provider signs the child care contract, he or she agrees to provide care only at the physical address designated in the contract. In certain circumstances, a child care center provider who owns more than one child care center only may move children eligible for subsidized child care benefits to an alternate center after he or she receives prior approval in writing from the FSSD Child Care Section authorizing him or her to move the children and the point-of-service (POS) machine to the alternate site for a designated period of time. FSSD Child Care Section staff give approval when:

(1) the same owner or legal business entity owns the alternate site;

(2) the alternate site is licensed and contracted at the same star level;

(3) there is a legitimate business reason for providing care in another location; and

(4) the provider advises FSSD Child Care Section staff how he or she is ensuring that parents are aware their children are being cared for at a difference location.

(f) **Renewal of child care contracts.** Child care provider contracts are effective ~~July 1 through June 30 of each~~ for terms not to exceed one year, the commencement date of which is determined by the FSSD Child Care Section staff. Contracts are automatically renewed for successive one year terms, under the same terms and conditions, unless either the provider or OKDHS gives written notice of its intent not to renew to the other party at least 30 calendar days prior to the expiration of the previous term. A contract is not renewed when a provider fails to attend required contract training or to provide any other information or documents requested during the contract renewal period.

(g) **Contract violations.** When the child care provider signs Form 08CC001E, the provider is agreeing to abide by the terms of the contract. When human services center staff become aware that a provider is violating the terms of the contract, he or she advises the provider to stop the practice immediately and sends an e-mail to FSSD Child Care Section advising of the circumstances. He or she may also complete Form 19MP001E, Referral Form, to report the violation to the Office of Inspector General. Examples of contract violations include, but are not limited to:

(1) discriminating against persons seeking services either by charging a discriminatory rate or violating a person's rights as listed in the Civil Rights Act of 1964 as amended, the Rehabilitation Act of 1973 as amended, or the Americans with Disabilities Act of 1990;

(2) failing to maintain a drug-free workplace;

(3) possessing or swiping a client's electronic benefit transfer (EBT) card;

(4) knowing a client's personal identification number (PIN);

(5) failing to ensure accurate time and attendance information was recorded by the parent or caretaker on the POS machine. The attendance, not time, of a child approved for the part-time or blended unit type must be recorded during the school year by the parent or caretaker;

(6) charging a client receiving subsidized child care more than the OKDHS rate for days and hours within the client's plan of service;

(7) charging a client for days and hours outside of client's plan of service or requiring that the client swipe attendance for those days and hours when the additional hours are a requirement of the provider and not a choice of the client;

(8) moving the children from the agreed upon location shown in the contract for reasons other than field trips and claiming for services at this other location without prior written approval from the FSSD Child Care Section;

(9) moving the POS machine and allowing parents to record time and attendance at a different location than agreed upon in contract without receiving prior written approval from the FSSD Child Care Section in accordance with subsection (e) of this Section;

(10) failing to advise and provide OKDHS a completed copy of any agreement the provider enters into within 30 calendar days of entering into such collaboration or agreement. This includes agreements with Head Start, Early Head Start, public schools, and/or any other programs receiving state or federal funding;

(11) claiming and/or receiving payment from OKDHS for the same hours of care the provider receives payment from another state or federal funding source;

(12) failing to inform OKDHS of a change in facility status, location, legal business entity, or ownership of the business at least 30 calendar days in advance of the change;
(13) filing manual claims when they could be filed through the EBT system;
(14) failing to post all of the facility's rates and fees;
(15) subcontracting services to another provider without written prior approval from OKDHS;
(16) refusing unlimited access by a parent or caretaker to the facility during the hours of operation;
(17) refusing to make available to OKDHS within an hour of request by any OKDHS representative all business records that document proper fiscal and program management by the provider;
(18) breaching the contract signed by the provider with the OKDHS EBT contractor;
(19) not maintaining written records for any manual claims filed during the last three years; and
(20) failing to inform OKDHS in writing within ten calendar days of any person who has an ownership or controlling interest in, or is an agent or managing employee of the child care business, who has been convicted of a criminal offense related to such person's involvement under Titles XVIII, XIX, or XX of the Social Security Act.

(h) **Cancellation of child care provider contracts.** FSSD Child Care Section staff initiates the cancellation by issuing a notice to the provider by certified mail and regular mail at the same time.

(1) Contracts may be canceled:
(A) with cause. The effective date of cancellation is 13 calendar days after FSSD staff mail the notice. This allows three calendar days for mailing time. The notice must contain a reference to the grounds for cancellation including the specific contract provision(s) that was violated; or
(B) without cause. The effective date of cancellation is 33 calendar days after FSSD staff mail the notice. This allows three calendar days for mailing time.

(2) The FSSD Child Care Section communicates with the child care liaison when a contract is being canceled to ensure that human services center staff have sufficient time to plan with clients to find another facility, if necessary. When it is necessary to cancel authorizations with a child care provider, the provider is notified by use of a computer-generated notice. FSSD Child Care Section staff closes all authorizations with the provider whose contract is canceled.

(3) When OKDHS initiates contract cancellation, FSSD Child Care Section staff route all correspondence regarding contract cancellation proceedings to:
(A) ~~DCC,~~ OCCS licensing coordinator;
(B) Legal Division;
(C) Finance Division;
(D) Office of Inspector General;
(E) FSSD Overpayment Section;
(F) Commodity Distribution Unit;
(G) the Child Care Resource and Referral Agency serving the area where the provider is located;
(H) Department of Education, Child Care Food Program;
(I) Cherokee Nation, if serving the area where the provider is located;
(J) Creek Nation, if serving the area where the provider is located;
(K) Choctaw Nation, if serving the area where the provider is located;
(L) Field Operations Division area office where the provider is located; and
(M) the local county director, child care liaison, ~~DCC~~ OCCS licensing supervisor, and ~~DCC~~ OCCS licensing staff where the provider is located.

(4) Copies of all correspondence regarding contract cancellation proceedings that are initiated by the provider are routed by the FSSD Child Care Section to:
(A) Finance Division; and
(B) local county director, child care liaison, ~~DCC~~ OCCS licensing supervisor, and ~~DCC~~ OCCS licensing staff where the provider is located.

SUBCHAPTER 15. OVERPAYMENTS

340:40-15-1. Overpayments

(a) **Determinations.** Overpayments occur as a result of agency, client, or provider error. ~~An~~ A client or child care provider overpayment is ~~established against either a client or child care provider when~~ determined by Oklahoma Department of Human Services (OKDHS) staff ~~determine~~ when a child care benefit was received or paid in error. ~~County workers~~ Workers, Office of Inspector General (OIG) auditors or investigators, Quality Control reviewers, staff from the Finance Division, or other OKDHS staff may identify a possible overpayment. ~~The Family Support Services Division (FSSD) Overpayment Section establishes all client overpayments and provider overpayments that occurred prior to the implementation of the electronic benefits transfer (EBT) system. The Finance Division establishes all EBT provider overpayments.~~

(1) **Agency error overpayment claim.** An agency error overpayment claim is established against either the client or the child care provider depending on the circumstances. An agency error overpayment occurs when due diligence was not exercised by OKDHS.
(A) When the worker incorrectly calculates ~~the family share co-payment or~~ the amount of care approved or the income, which results in an incorrect co-payment, ~~FSSD Overpayment Section staff establish~~ the worker and supervisor establish the agency error overpayment against the client.
(B) Finance Division staff establish agency error overpayments against the provider for plan of service errors when ~~Oklahoma Department of Human Services (~~OKDHS~~)~~ pays an incorrect rate.

(2) **Client error overpayment claim.** A client error overpayment claim is established against the client when the client:

(A) provides incorrect information at the time of application or review;

(B) fails to report within ten days any change that affects eligibility; or

(C) uses child care for days and hours the client is not eligible for child care.

(3) **Provider error overpayment claim.** A provider error overpayment claim is established against the provider when the provider:

(A) submits incorrect claims;

(B) fails to timely void inaccurate attendance entered in the point-of-service (POS) machine by the client;

(C) receives payment for care the provider did not provide and is not entitled to receive. This can occur when the provider has possession of the client's EBT card and swipes attendance for a day a child did not attend or facility staff request that a parent do so;

(D) receives payment for care from OKDHS that was provided after the date his or her child care license has been revoked or contract canceled;

(E) moves POS machine to a different location prior to obtaining written approval from FSSD Child Care Section and payment was made for care during that period; or

(F) fails to accurately maintain records as required by OKDHS for three years or until the resolution of pending legal issues whichever is later.

(4) **Establishing the overpayment.**

(A) The establishment of a client overpayment is made by the worker's supervisor or staff in the Family Support Services Division (FSSD) Benefit Integrity and Recovery Section.

(B) Finance Division staff establish all provider overpayment claims.

(C) At the time a claim is established, Form 08AD012E, Notification of Overpayment, and Form 08TA016E, Repayment Agreement, are automatically issued and mailed to the household.

(~~4~~5) **Liquidated damages.** Per OAC 340:2-11-150, Finance Division staff may assess liquidated damages in addition to an overpayment when the provider:

(A) is in possession of the client's EBT card;

(B) swipes the card through the POS machine; or

(C) knows the client's personal identification number (PIN).

(b) **Notice of overpayment.** ~~FSSD Overpayment Section or~~ Finance Division staff ~~send~~ sends an overpayment notice to the ~~client and/or~~ provider ~~at the time they establish~~ once the overpayment has been established. FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section staff ~~send clients~~ sends the client a monthly account ~~statements~~ statement that ~~reflect~~ reflects all payment and account information beginning the month following the initial notice month.

(c) **Appeal rights.** Only a client has the right to appeal all or part of any overpayment established against his or her case.

(d) **Repayment of an overpayment claim.** OKDHS requires repayment of all established overpayments.

(1) ~~FSSD Overpayment Section staff issue to clients~~ Form ~~ADM-8-B~~ 08TA016E, Repayment Agreement, is sent to the client with the original overpayment notice.

(2) Finance Division staff send a letter to the provider that explains the recoupment process for vendor overpayments.

~~(A) Child care providers must contact the FSSD Overpayment Section to establish a mutually agreed upon repayment plan for overpayments that occur prior to EBT implementation.~~

~~(B)~~ Providers must contact the Finance Division if they have questions concerning the repayment plans for overpayments that occur after the EBT system was implemented.

SUBCHAPTER 16. IMPROPER AUTHORIZATION INITIATIVE

340:40-16-1. Improper authorization initiative

There is a review of a scientific sample of applications and case actions relating to the Child Care Program by the Administrative Review Unit (ARU) in the same manner as for food benefits, public assistance, and medical benefit actions. The sample is selected by the Office of Planning, Research and Statistics. The records for all cases in the sample are requested by ARU when the cases are scheduled and verification of conditions of eligibility is determined.

[OAR Docket #08-465; filed 3-27-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 50. FOOD STAMP PROGRAM

[OAR Docket #08-466]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 3. Application Process
340:50-3-1 [AMENDED]
340:50-3-3 [AMENDED]
Subchapter 5. Non-Financial Eligibility Criteria
Part 3. Special Households
340:50-5-26 through 340:50-5-27 [AMENDED]
Part 7. Related Provisions
340:50-5-67 [AMENDED]
Part 9. Work Registration
340:50-5-85 [AMENDED]
340:50-5-87 through 340:50-5-88 [AMENDED]
Subchapter 7. Financial Eligibility Criteria
Part 1. Resources
340:50-7-4 [AMENDED]
Part 3. Income
340:50-7-30 [AMENDED]
Subchapter 9. Eligibility and Benefit Determination Procedures

340:50-9-1 [AMENDED]
340:50-9-6 [AMENDED]
Subchapter 10. Electronic Benefit Transfer (EBT)
340:50-10-7 [REVOKED]
Subchapter 11. Special Procedures
Part 1. Households Entitled to Expedited Service
340:50-11-5 [AMENDED]
Part 3. Simplified Food Stamp Program (SFSP) for Temporary Assistance for Needy Families (TANF) and Companion State Supplemental Payment (SSP) Recipient(s)
340:50-11-27 [AMENDED]
Part 5. Restoration of Lost Benefits
340:50-11-46 [AMENDED]
Part 12. Categorically Eligible Households [NEW]
340:50-11-111 through 340:50-11-115 [NEW]
Subchapter 13. Fair Hearings
340:50-13-1 through 340:50-13-2 [AMENDED]
(Reference APA WF 07-21 and 07-27)

AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Section 273 of Title 7 of the Code of Federal Regulations (CFR); and Section 71 of Title 56 and Section 20j of Title 74 of the Oklahoma Statutes.

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SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 5 Non-Financial Eligibility Criteria
340:50-5-67 [AMENDED]
(Reference APA WF 07-21)
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07-1430

INCORPORATIONS BY REFERENCE:
N/A

ANALYSIS:
Revisions to Subchapters 3, 5, 7, 9, 10, 11, and 13 of Chapter 50 amend rules to: (1) update language to reflect current terminology and form numbers; (2) correct rule citation; (3) add clarifying language; (4) clarify when to use the net income or 50% of the gross for self-employed persons claiming business expenses; (5) add a new Part to define and explain categorically eligible households; and (6) establish rules regarding the verification of the lawful presence in the United States (U.S.) for persons 14 years of age or older who are applying for state or federal public benefits.

CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2008:

SUBCHAPTER 3. APPLICATION PROCESS

340:50-3-1. The application process

(a) **General.** The application process begins with a request for an application form and ends with determining the household's eligibility and entering that determination into the computer system.

(1) The application must be processed no later than 30 calendar days after the signed application is filed in the Oklahoma Department of Human Services (OKDHS) ~~county office~~ human services center (HSC). The process involves such actions as:

(A) making application forms available;

(B) assisting a household in the completion of an application;

(C) interviewing members of the household or the authorized representative;

(D) providing necessary collateral contacts for verification; and

(E) preparing necessary documents to authorize the household to receive and use food ~~stamp~~ benefits.

(2) Expedited services must be available to those households who are in immediate need as defined in OAC 340:50-11, Part 1.

(3) Persons having lawful alien status must have status verified through Systematic Alien Verification for Entitlements (SAVE) in accordance with OAC 340:65-3-4.

(4) Benefits must be provided retroactively to the date of application for households who have timely completed the application process and who have been determined eligible.

(b) **Filing applications.** Each household wishing to participate in the Food Stamp Program must file a separate application. See OAC 340:50-5-1 for household definition. The designated head of household is not required to make the food ~~stamp~~ benefit application. Applications may be made by a responsible household member or authorized representative. A responsible household member or authorized representative completes an authorization for release of information at the time of application, if necessary. Applications may be filed in person or by mail.

(1) **Right to same day filing.** Since the time limit for providing benefits is calculated from the date the application is actually received in the ~~county office~~ HSC, households are advised of their right to complete and file an application on the same day they contact the ~~county office~~ HSC. They are also advised they do not have to be interviewed before filing the application and they may file an incomplete application form as long as the form contains the applicant's name, address, and the signature of either an adult member of the household or the household's authorized representative. Food ~~stamp~~ benefits households are encouraged to file the application form

on the same day they or their authorized representative contacts the ~~county office~~ HSC.

(A) Application forms are made readily accessible to potentially eligible households and groups and organizations who assist ~~individuals~~ persons in completing application forms for food ~~stamps~~ benefits.

(B) If the household has contacted the ~~county office~~ HSC by telephone but is unable to file an application on the same day, or the household has requested food assistance in writing, the ~~county office~~ HSC mails an application form to the household on the same day the written request or telephone call is received.

(C) To facilitate participation in the Food Stamp Program, households in which all members are applying for State Supplemental Payments or Temporary Assistance for Needy Families (TANF) must be allowed to apply for food ~~stamps~~ benefits at the same time they apply for financial assistance. However, the household's eligibility and benefit level are based on food ~~stamp~~ benefits eligibility criteria and the household is certified in accordance with ~~food stamp~~ Food Stamp Program regulations. Special procedures for taking and processing food ~~stamp~~ benefits applications for those households are provided in OAC 340:50-11.

(D) Immediately upon receipt in the ~~county office~~ HSC, all application forms are screened to determine whether or not the household is entitled to expedited services. ~~County~~ HSC screening procedures are instituted for screening applications received through the mail and applications filed in the ~~county office~~ HSC. All initial applicant households that qualify under the provisions in OAC 340:50-11 must receive expedited processing if certified for food ~~stamp~~ benefits whether requested by the client or not. ~~Expedited service processing is not an option for the client.~~

(2) **Head of household.** A household may select, as head of household, an adult parent of children of any age living in the food ~~stamp~~ benefit household, or an adult who has parental control over children under 18 years of age living in the food ~~stamp~~ benefit household provided all adult household members agree to the selection.

(A) Households select their head of household at each certification action or whenever there is a change in household composition.

(B) If all adult members do not agree to the selection or decline to select an adult head of household, the household may select another head of household or the worker may designate a head of household.

(C) In no event does the failure to select an adult who has parental control of children delay the certification or result in the denial of benefits for an otherwise eligible household.

(3) **Authorized representative.** An authorized representative is ~~an individual~~ a person who is knowledgeable of the household circumstances and who is designated in writing by the head of the household, spouse, or other responsible household member to act on behalf of the household in applying for and obtaining food ~~stamp~~ benefits. In the event the only adult member of the household is classified as a non-household member, that person may be designated as the authorized representative for minor household members.

(A) When an authorized representative has been designated in writing to make application on behalf of a household, the household is informed they will be held liable for any overissuance which results from erroneous information given by the authorized representative. Whenever possible the head of the household or spouse should prepare or review the application even though the authorized representative actually files the application and is interviewed.

(B) Employees of OKDHS and relatives who are authorized to accept food ~~stamp~~ benefits may not act as authorized representatives without the specific written approval of the local county director after a determination has been made that no one else is available to serve as the authorized representative.

(C) ~~Disqualified individuals~~ A disqualified person may not act as an authorized ~~representatives~~ representative during the period of disqualification unless the ~~individual~~ person disqualified is the only adult member of the household able to act on its behalf and the ~~county office~~ HSC staff determines there is no one else available to serve as an authorized representative.

(4) **Documentation and control of authorized representatives.** The ~~county office~~ HSC ensures an authorized representative is properly designated and has not been disqualified. ~~The name of the authorized representative must be contained in the household's case file and shown on the computer input form.~~ Limits are not placed on the number of households an authorized representative may represent. Care is taken by the ~~county office~~ HSC staff to ~~assure~~ ensure the household:

(A) has freely requested the assistance of the authorized representative~~,~~;

(B) ~~the household~~ circumstances are correctly reported~~,~~; and

(C) ~~the household~~ is receiving the correct amount of benefits.

(5) **Disqualification of authorized representative.** An authorized representative is disqualified from serving as an authorized representative in the Food Stamp Program for up to one year when evidence demonstrates the ~~individual~~ person has misrepresented a household's circumstances, has knowingly provided false information pertaining to the household, or has made improper use of benefits. Information indicating that ~~an individual~~ a person should be disqualified as an authorized representative is forwarded to the Family Support Services Division (FSSD) Food Stamp Section, for a decision. The ~~county office~~ HSC is notified in writing of the decision. If the ~~individual~~ person is disqualified, appropriate notification is mailed to the household by ~~the State Office~~ FSSD Food

Stamp Section staff. This provision does not apply to ~~individuals~~ persons serving as authorized representatives for group homes or drug and alcoholic treatment programs.

(c) **Processing initial applications.** When an application form is received that contains the applicant's name and address, and is signed by a responsible member of the household or the household's authorized representative, the date of application is the date it is received and stamped into the ~~county office~~ HSC except as stipulated at OAC 340:50-9-1(c) and OAC 340:50-9-6(e). When the application form has been signed by the responsible person or authorized representative for a household who is also applying for public assistance, the application is processed in accordance with OAC 340:50-11.

(1) **Normal processing standard for initial applications.** The worker must provide eligible households who complete the initial application process with food ~~stamp~~ benefits within 30 calendar days following the date the initial application was filed.

(2) **Withdrawing of application.** A household may voluntarily withdraw its application at any time prior to the determination of eligibility. ~~The worker documents in the case record the reason for withdrawal, if any was given by the household, and that contact was made with the household to confirm the withdrawal. The household is advised of its right to reapply at any time.~~

(d) **Second 30 days.** A new application is not needed when a household fails to complete the application process within 30 calendar days if they provide the required verification within 60 calendar days. This includes verification waived for expedited services. When there is a break in the certification, the application and certification dates are changed to the date the verification is provided.

340:50-3-3. Verification

(a) **General standards for verification.** Verification is the use of third party information or documentation to confirm the accuracy of statements made on the application form. For specific policy regarding required verification of non-financial eligibility criteria~~, at~~ see OAC 340:50-5, and for financial eligibility criteria~~, at~~ see OAC 340:50-7. The household is provided a clear written statement explaining what the household must do to cooperate in obtaining verification and completing the application.

(b) **Questionable information.** The worker must verify questionable factors of eligibility, including all factors affecting household composition, prior to certification, only if these would affect a household's entitlement. A household's report of expenses which exceed its income prior to deductions may be grounds for a determination that further verification is required.

(1) **Questionable information.** To be considered questionable, the information on the application must be inconsistent with:

(A) statements made by the applicant~~, inconsistent with~~;

(B) other information in the case record~~,~~; or

(C) ~~inconsistent with~~ other information received by the Oklahoma Department of Human Services (OKDHS).

(2) **Documentation.** There must be documentation as to:

(A) ~~why~~ the reason the information was considered questionable~~,~~;

(B) what documentation was used to resolve the questionable information; and

(C) the reason an alternate source of documentation, such as a collateral contact or home visit, was made.

(3) **Determination.** When determining if information is questionable, the worker bases the decision on each household's individual circumstances. ~~A household's report of expenses which exceed its income prior to deductions may be grounds for a determination that further verification is required.~~

(c) **Sources of verification.** The following sources of verification are not intended to be all inclusive but provides the worker with types of evidence that may be used to establish eligibility.

(1) **Documentary evidence.** The worker uses documents, whenever possible, as the primary source of verification. Examples of documentary evidence include wage stubs, rent receipts, and utility bills.

(A) Although documentary evidence is the primary source of verification, verification cannot be limited to a single document or source.

(B) ~~Where~~ When information from another source contradicts statements made by the household, the household is immediately afforded the opportunity to resolve the discrepancy.

(C) ~~Whenever~~ When documentary evidence cannot be obtained, the worker uses alternate sources of verification, such as collateral contacts and home visits.

(D) In all cases, the method of verification is recorded in the case record.

(2) **Collateral contacts.** The worker has the responsibility to verify all factors of eligibility for food ~~stamps~~ benefits which may require one or more collateral contacts. The client's signature on the application for food ~~stamps~~ benefits grants the necessary authorization for securing required information or verification.

(A) A collateral contact is a verbal confirmation of a household's circumstances by a person outside the household. The collateral contact may be made either in person or over the phone.

(B) The acceptability of a collateral contact is not restricted to a particular ~~individual~~ person, but may be anyone that can be expected to provide an accurate third party verification of the household's statement. Examples of acceptable collateral contacts are:

(i) employers~~,~~;

(ii) community action groups~~,~~;

(iii) migrant service agencies~~,~~;

(iv) neighbors of the household~~,~~; or

(v) other persons outside the household.

(C) If the collateral source is one which requires written authorization before supplying information to OKDHS, the signature of the client on Form ~~ADM-60~~ 08AD060E, Request for Release of Information, ~~or an approved county form~~ must be obtained. ~~This authorization also includes the permission of the client's spouse for obtaining information regarding his or her circumstances in connection with the same application, and of the client's parents when the client is a dependent blind child.~~ If information is needed regarding another adult household member, that person may need to sign Form 08AD060E before the collateral source agrees to release information.

(3) **Home visits.** A home visit can be used as verification if documentary evidence cannot be obtained from other sources and the visit is scheduled in advance with the household.

(4) **Field investigation.** The worker conducts an intensive field investigation when a household is suspected of withholding information or of intentional program violations. A field investigation is made after the worker has exhausted all other methods of verification and still does not have enough evidence to certify, deny, or close ~~a case~~ food benefits.

(A) The intensive field investigation includes all questionable factors of eligibility. The worker makes every effort to obtain the most reliable second-party verification available. Contacts may include, but are not limited to, the ~~applicants~~ applicant or ~~recipients~~ recipient, other adult household members, employers, banks, government agencies, landlords, neighbors, and utility companies. The client does not have to provide specific written authorization unless it is required by the collateral source before they can or will furnish the requested information.

(B) Persons who are contacted for information related to a client's eligibility must be advised of the reason the information is needed and how it will be used. If the person providing the information is unwilling to have his or her identity revealed to the client, the information is not used to make an eligibility decision nor is it recorded in the case record. The worker must attempt to verify the information using an alternate source.

(C) The worker contacts the client when the information gathered during the investigation differs from that given by the client. The client is given the opportunity to clear up conflicting information when possible. When the client cannot be contacted, the worker documents, in the case record, what attempts were made.

(D) The verified evidence gathered during the course of the investigation is documented, in detail, in the case record. This documentation must include:

(i) what information was received, dates related to the information, source of the verification, and the date the information was received;

(ii) ~~give~~ a complete explanation of conflicting information and what attempts were made to resolve the differences with the client; and

(iii) when the client refuses to cooperate in determining eligibility, ~~the case record must~~ information to clearly show that the client was given the opportunity to cooperate and was able to do so.

(E) When the eligibility determination is delayed due to a field investigation the worker manually issues ~~a notice~~ Form 08MP039E, Notice to Client of Action Taken, informing the client of the pending status of the application.

(d) **Responsibility for providing verification.**

(1) **Household responsibility.** The household has primary responsibility for providing documentary evidence to support its income statements and to resolve any questionable information. ~~The worker assists the household in obtaining this verification provided the household is cooperating with the worker.~~ Households may supply documentary evidence in person, through the mail, or through an authorized representative.

(2) **Worker responsibility.** The worker assists the household in obtaining this verification provided the household is cooperating with the worker.

(A) The ~~county office~~ human services center (HSC) accepts any reasonable documentary evidence provided by the household and is primarily concerned with how adequately the verification confirms the statement on the application.

(B) If it would be too difficult or impossible for the household to obtain documentary evidence in a timely manner, the worker offers assistance to the household in obtaining the documentary evidence.

(C) The household is not required to provide multiple sources of verification when the household has already provided information which adequately supports the statements on the application. However, the worker may require households to provide additional verification when the existing verification is incomplete.

(D) An application is never denied solely because a person outside the food ~~stamp~~ benefit household fails to cooperate in providing information, verification, or other help needed to process an application. Disqualified or ineligible ~~individuals~~ persons are considered members of the food ~~stamp~~ benefit household for this provision.

(e) **Documenting case files.**

(1) **Case files.** Case files must be documented in detail to support eligibility, ineligibility, and benefit level determinations.

(2) **Documentation.** Documentation must include:

(A) sources of verification, dates of the sources of verification, and amounts verified~~. It must also reflect~~;

(B) computations used to arrive at monthly income deductions~~. When~~;

(C) why verification is required to resolve questionable information~~, the worker must document in the case record why the information was considered questionable,~~;

(D) what documentation was used to resolve the questionable information; and

(E) the reason an alternate source of documentation, such as a collateral contact or home visit, was made.

SUBCHAPTER 5. NON-FINANCIAL ELIGIBILITY CRITERIA

PART 3. SPECIAL HOUSEHOLDS

340:50-5-26. Drug addiction or alcoholic treatment centers

Residents of drug addiction or alcoholic treatment centers are certified for program participation through the use of an authorized representative who is an employee of, and designated by the publicly-operated, community mental health center or the private, non-profit organization or institution administering the treatment and rehabilitation program. The organization or institution receives and spends the food ~~stamp~~ benefit allotment for food prepared by or served to a person who is drug or alcohol addicted.

(1) **Persons addicted to drugs or alcohol in treatment programs.** Persons addicted to drugs or alcohol who regularly participate in publicly operated or private non-profit drug or alcoholic treatment and rehabilitative programs on a resident basis may voluntarily apply for the Food Stamp Program. The ~~child(ren)~~ child of a resident who lives with his or her parents in the treatment center may also qualify to participate. Residents have eligibility determined as a one person household or, when applicable, as a family unit. They may use all or part of the food ~~stamp~~ benefits issued to them in the treatment center to purchase food prepared for them during the treatment program.

(A) Residents of treatment centers are certified using the same provisions that apply to all other applicant households except certification is completed through use of authorized representatives.

(B) Participants in a drug addict or alcoholic treatment and rehabilitative program are exempt from the work registration requirement. Participation must be verified through the organization or institution operating the program before granting the exemption if the information is inconsistent with other information on the application, previous application, or other documented information.

(2) **Approved centers.** The drug or alcohol treatment and rehabilitative center must be approved by the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS), or by Food and Nutrition Services (FNS) as a retailer.

(3) **Center responsibility.** All treatment and rehabilitative centers must provide the ~~county office~~ local human services center (HSC) with a list of currently participating residents on a monthly basis. This list must include a statement signed by a responsible center official attesting to the validity of the list.

(4) **When participant leaves the center.** When a participant leaves a treatment center, the center:

(A) notifies the departing resident household they may have food ~~stamp~~ benefits left in their Electronic Benefit Transfer (EBT) account.

(i) The departing household receives its full food ~~stamp~~ benefit if no food ~~stamp~~ benefits have been spent on behalf of that ~~individual~~ person's household. These procedures are applicable any time during the month.

(ii) The center accesses only half of the food ~~stamp~~ benefits in the resident's EBT account prior to the 15th of the month.

(iii) If the resident remains in the facility after the 15th day of the month, the remaining food ~~stamp~~ benefits may be accessed on behalf of the resident.

(iv) If the household leaves after the 16th day of the month and the food ~~stamp~~ benefits have already been issued and used, the household does not receive any further food ~~stamp~~ benefits for that month;

(B) is no longer allowed to act as that person's authorized representative;

(C) provides, if possible, the person with a form ~~FSP 38~~ 08FB038E, Changes in Household Circumstances, and advises ~~them~~ the person to complete the form showing his or her new circumstances and to return the form to the local Oklahoma Department of Human Services (OKDHS) ~~county office~~ HSC within ten calendar days;

(D) informs the departing household they must go to the local ~~OKDHS~~ ~~county office~~ HSC to secure their own Access Oklahoma card;

(E) deactivates immediately the Access Oklahoma card by calling the phone number shown on the back of the card; and

(F) notifies the ~~county office~~ HSC the participant left the treatment center.

(5) **Reporting changes.** The treatment center must notify the ~~county office~~ HSC of changes in the household income or other household circumstances required to be reported as outlined in OAC 340:50-9-5.

(6) **Treatment center liability.** The organization or institution is responsible for any misrepresentation or fraud it knowingly commits in the certification of treatment center residents.

(A) As an authorized representative, the organization or institution must be knowledgeable about the households' circumstances and carefully review these circumstances with residents prior to applying on their behalf.

(B) The organization or institution is strictly liable for all losses or misuse of food ~~stamp~~ benefits held on behalf of resident households and for all over issuances which occur while the households are residents of the treatment center.

340:50-5-27. Disabled or blind residents of group homes

Residents of group homes may be certified for food ~~stamp~~ benefits through the use of an authorized representative who is designated by and is an employee of the group home. The group home may either receive and spend the food ~~stamp~~ benefits for food prepared by or served to the eligible resident or allow the eligible resident to use all or any portion of the food ~~stamp~~ benefit allotment on his or her own behalf.

(1) **Residents in group homes.**

(A) Residents of group homes who are disabled or blind as defined in OAC 340:50-5-4 may voluntarily apply for food ~~stamp~~ benefits. The resident may apply and be certified:

(i) through an authorized representative employed and designated by the group home;

(ii) on his or her own behalf; or

(iii) through an authorized representative of his or her own choice.

(B) The group home determines what method the resident uses to make application based on the resident's mental and physical ability to handle his or her own affairs. The group home consults with other agencies providing services to the resident in making this determination.

(C) If the resident applies through the use of the group home's authorized representative, eligibility is determined for a single person household. The household must meet all conditions of eligibility.

(D) If the resident applies on his or her own behalf or through an authorized representative of his or her own choice, household size is determined in accordance with the definition in OAC 340:50-5-1.

(i) The food ~~stamp~~ benefits may either be turned over to the facility to be used to purchase food for meals served communally or individually to eligible residents, used by the eligible resident to purchase and prepare his or her own food, or to purchase meals prepared and served by the group.

(ii) The resident is responsible for reporting changes in circumstances.

(2) **Approved group homes.** The group home must be approved by the Developmental Disabilities Services Division (DDSD) or by Food and Nutrition Services (FNS) as a retailer.

(3) **Group home's responsibility.** Each group home must provide the ~~county office~~ local human services center (HSC) with a list of currently participating residents on a monthly basis. Included on this list is a statement signed by a responsible official of the group home attesting to the validity of the list.

(A) When the group home is acting in the capacity of authorized representative, it is responsible for notifying the ~~county office~~ HSC of changes in income or other household circumstances required to be reported. [OAC 340:50-9-5]

(B) The group home has no responsibility to report changes for residents certified on their own behalf or through an authorized representative of their own choice.

(4) **When participant leaves the group home.**

(A) When a participant leaves the group home, the group home acting as an authorized representative or retaining use of the resident's food ~~stamp~~ benefits must:

(i) notify the departing resident there may be benefits remaining in his or her Electronic Benefit Transfer (EBT) account.

(I) The departing household receives its full food ~~stamp~~ benefit if no food ~~stamp~~ benefits have been spent on behalf of that individual household. These procedures are applicable any time during the month.

(II) The group home accesses only half of the food ~~stamp~~ benefits in the resident's EBT account prior to the 15th of the month.

(III) If the resident remains in the facility after the 15th day of the month, the remaining food ~~stamp~~ benefits may be accessed on behalf of the resident.

(IV) When the household leaves after the 16th of the month and the food ~~stamp~~ benefits have already been issued and used, the household does not receive any further food ~~stamp~~ benefits for that month;

(ii) no longer act as authorized representative for that ~~individual~~ person;

(iii) inform the departing household they must go to the local Oklahoma Department of Human Services (OKDHS) ~~county office~~ HSC office to secure their own Access Oklahoma card;

(iv) deactivate immediately the Access Oklahoma card by calling the phone number shown on the back of the card when the resident leaves the group home; and

(v) notify the ~~county office~~ HSC office the ~~individual~~ person left the group home.

(B) Residents who applied on their own behalf and retained use of their own food ~~stamp~~ benefits are entitled to keep the food ~~stamp~~ benefits when they leave.

(C) The group home, if possible, provides the household leaving the facility with a Form ~~FSP 38~~ 08FB038E, Changes in Household Circumstances, and advises ~~them~~ the person to complete the form showing his or her new circumstances and to return the form to the local OKDHS ~~county office~~ HSC within ten calendar days.

(5) **Group home liability.** When the group home is acting as an authorized representative, the organization is

responsible for any misrepresentation or fraud it knowingly commits in the certification of residents.

(A) As an authorized representative, the organization must be knowledgeable about the household's circumstances and carefully review these circumstances with residents prior to applying on their behalf.

(B) The organization is strictly liable for all losses or misuse of food ~~stamp~~ benefits held on behalf of resident households and for all over issuances which occur while the households are residents of the group home.

(C) The group home is not liable for over issuances for residents certified on their own behalf or through an authorized representative of their own choice.

PART 7. RELATED PROVISIONS

340:50-5-67. Citizenship and alien status

(a) To be eligible for food ~~stamp~~ benefits an individual must be:

(1) a United States (U.S.) citizen;

(2) a U.S. non-citizen national;

(3) an alien who is both qualified and eligible; or

(4) an alien not required to meet qualified alien status.

(b) Pursuant to Section 71 of Title 56 and Section 20j of Title 74 of the Oklahoma Statutes, all persons 14 years of age and older must declare whether they are residing in the U.S. lawfully and may be required to sign Form 08MP005E, Citizenship Affidavit, in accordance with OAC 340:65-3-1(g).

PART 9. WORK REGISTRATION

340:50-5-85. Who must register

To be eligible to receive food ~~stamp~~ benefits, certain unemployed adults who are members of eligible households must comply with work registration requirements. Form ~~FSS-1, Comprehensive Application and Review Form,~~ 08MP003E, Responsibilities and Signature for Benefits, includes a work registration statement which automatically registers all household members age 16 through 59 required to comply with work registration.

(1) It is the ~~social services specialist's~~ worker's responsibility to explain to the applicant this statement and each household member's work registration status and responsibility.

(2) At the time of the initial application, change in employment status, or at the end of each 12-month registration period, the ~~social services specialist~~ worker must establish each household member meets exemption requirements or the member is automatically registered by being included on a food ~~stamp~~ benefit application.

(3) Employable members of migrant households who are not employed at least 30 hours a week or receiving weekly earnings equal to the federal minimum wage times 30 hours must register for and accept suitable employment, the same as other persons.

340:50-5-87. Work registration procedures

If any registered member of a household receiving food ~~stamp~~ benefits fails to comply with work registration requirements, the entire household could be disqualified for one to six months in accordance with OAC 340:50-5-88(6). Household members in the Job Search Project ~~county~~ human services center (HSC) required to register for work complete Form ~~FSP-15~~ 08FB015E, Employment and Training Assessment. Registration is completed at the face-to-face interview for all household members who are required to register. After registration, the job search process is initiated unless a household member is obviously exempt from the Job Search Project.

(1) **Loss of exemption status.** When changes in circumstances required to be reported are reported, household members who have lost their exempt status because of the reported change must register for work. If it is not possible to complete Form ~~FSP-15~~ 08FB015E at the time of the reported change, it must be completed within ten calendar days of the reported change.

(2) **Failure to comply.** The same definitions of head of household and ~~individuals~~ persons who fail to comply as described in OAC 340:50-5-88(6) apply for the Job Search Project. The disqualification can be ended before the disqualification period expires only if the household member registers for work, becomes exempt from work registration, or leaves the household.

340:50-5-88. Requirements after registration

Requirements after registration in the Job Search Project are applicable only to registrants in the Job Search Project ~~county~~ human services center (HSC).

(1) **Employment and training (E&T).** The intent of the Food Stamp E&T Program is to ensure all able-bodied food ~~stamp~~ benefit recipients are involved in meaningful work related activities which will lead to paid employment and a decreased dependency on assistance programs. The Oklahoma Department of Human Services (OKDHS) is responsible for assisting and directing ~~individuals~~ persons in E&T activities which enable them to achieve or maintain economic self support. These activities include registration for E&T, employment related evaluations and assessment, employability planning, counseling, job developing, and job placement.

(A) All work registrants not exempted from work registration who live in the designated Food Stamp E&T ~~county~~ HSC office boundaries or have not been exempted from E&T activity must participate in the Food Stamp E&T Program. Food ~~stamp~~ benefit recipients exempted from work registration or from E&T may participate in the Food Stamp E&T Program as a volunteer.

(B) The E&T requirement applies each time a registrant loses a work registration exemption, re-enters

the Food Stamp Program after a period of absence, or each 12 months, whichever occurs first.

(C) If a work registrant becomes exempt from work registration at any point during the E&T process, E&T requirements no longer apply.

(D) When a work registrant moves from a non-E&T ~~county~~ HSC into the Job Search Project ~~county~~ HSC boundaries, the E&T is initiated for work registrants immediately following receipt and review of the case file. When a work registrant moves from the Job Search Project ~~county~~ HSC boundaries into a non-E&T ~~county~~ HSC boundaries, E&T requirements no longer apply.

(2) **Food stamp E&T exemptions.** Mandatory work registrants not exempted from work registration may be exempted from the Food Stamp E&T Program if the registrant:

(A) resides an unreasonable distance from the ~~county office~~ HSC or potential employer. A distance is considered unreasonable if the round trip exceeds two hours by public or private transportation;

(B) is a migrant or seasonal farm worker away from his or her home base and following the work stream;

(C) lacks adequate child care;

(D) has physical or mental problems;

(E) is 55 years old or older and working under Title V of the Older American Act; or

(F) is homeless as defined in OAC 340:50-5-29.

(3) **E&T classification.** Participants are classified into four groups.

(A) **Job ready.** The registrant does not have substantial barriers to employment.

(B) **Not job ready.** This classification is assigned when the food ~~stamp~~ benefit work registrant has barriers that require services not available through the Food Stamp E&T Program. If this classification is assigned, the ~~food stamp~~ person's worker or food ~~stamp~~ benefit E&T worker finds services to eliminate these barriers to employment.

(C) **Job attached.** The registrant is temporarily laid off or expects to return to work within 60 calendar days. This classification is assigned for only 60 calendar days. At the end of the 60 calendar day period, the registrant, if still unemployed, is reassessed and reclassified to a different category.

(D) **Exempt.** This classification is assigned if the registrant meets any of the conditions listed in paragraph (2) of this subsection.

(4) **Food stamp E&T component assignments.** Participants classified as job ready are assigned to an E&T ~~components are~~ component as described in (A) through (C) of this paragraph.

(A) **Job Search.** Participants assigned to this component are required to contact a minimum of 24 employers within an eight-week period or two four-week periods. One eight-week period is eight consecutive weeks of job search with a follow-up meeting after the first four weeks. A two four-week job search period has a period of time between the two job search periods. One follow-up interview is required each four weeks.

(i) A job contact is defined as a registrant presenting himself or herself as available and applying for work.

(ii) Appointments are scheduled on Form ~~FSP-20~~ 08FB020E, Food Stamp Employment and Training Letter.

(iii) The job search assignment is given to the registrant in writing on Form ~~FSP-22~~ 08FB022E, Job Search Plan. This form is also used to schedule follow-up interviews and used by the ~~registrants~~ registrant to report job contacts. Job contacts are reported in writing and the registrant must attest that the signed statement is true. Employers contacted by the registrant are not required to provide written confirmation of the contact but the registrant is required to sign the statement attesting he or she made the contacts.

(iv) If an E&T participant is referred to a job contact by the food ~~stamp~~ benefit E&T worker and does not make this contact, the E&T worker initiates conciliation per (6)(A) of this Section. ~~[OAC 340:50-5-88(6)(A)]~~

(v) If an E&T participant does not accept a job offered to him or her without good cause, the food ~~stamp~~ benefit E&T worker initiates conciliation per (6)(A) of this Section. ~~[OAC 340:50-5-88(6)(A)]~~

(B) **Workforce Investment Act (WIA) component.** ~~Participants~~ A participant assigned to this component ~~are~~ is eligible for all the services available at WIA. ~~Participants~~ A participant assigned to this component ~~have~~ has completed the job search component without finding a job or ~~are~~ is identified by the E&T worker as ~~individuals~~ a person who can benefit from the services available through WIA. When the component is assigned, the participant is provided Form ~~TW-3~~ 08TW003E, Interagency Referral and Information, to take to WIA. The E&T participant is responsible for returning to the E&T worker Form ~~TW-3~~ 08TW003E signed by a representative of WIA.

(C) **Oklahoma Employment Security Commission (OESC) component.** ~~Participants~~ A participant assigned to this component ~~are~~ is eligible for all the services available at OESC. ~~Participants~~ A participant assigned to this component ~~are~~ is an E&T ~~participants~~ participant the E&T worker has determined would benefit from these services. When this component is assigned, the E&T worker gives the participant Form ~~TW-3~~ 08TW003E to take to OESC. The E&T participant is responsible for returning to the E&T worker Form ~~TW-3~~ 08TW003E signed by a representative of OESC.

(5) **E&T related expenses.** ~~Participants~~ A participant in the Food Stamp E&T Program may receive up to $25 per month for E&T activity if another agency is not

reimbursing the participant for the same type of activity. Reimbursement is $3 for a half day, four hours or less, and $6 for a full day, more than four hours.

(A) The food ~~stamp~~ benefit E&T worker gives Form ~~TW-13, Time and Progress Report~~ 08FB023E, Food Stamp Employment and Training Participation Report, to the E&T participant to complete Part 1 and return to the ~~county office~~ HSC during the first week of each month.

(B) ~~Work registrants~~ A work registrant with a ~~child(ren)~~ child under 12 years of age required to participate or who volunteer in the Food Stamp E&T Program ~~are~~ is eligible for a maximum child care payment of $200 per month per child ~~vendor purchased~~ paid to the child care provider. See OAC 340:50-5-97 for voucher authorized child care for the Food Stamp E&T Program.

(6) **Failure to comply.**

(A) A registrant who fails to keep a scheduled E&T interview or fails to comply with E&T requirements and does not meet the good cause provision in ~~OAC 340:50-5-88(7)~~ (7) of this Section, is given the opportunity to comply through a conciliation period. The purpose of conciliation is to resolve disputes in an informal fashion and avoid invoking penalties. The conciliation period starts the day after noncompliance with E&T requirements is determined and lasts for no more than ten calendar days.

(B) If the registrant has not responded to the conciliation process by the tenth calendar day, the ten-day advance notice is sent. The adverse action is taken for noncompliance of E&T requirements. This notice is sent no later than the last day of the conciliation period.

(C) To comply with conciliation or show a good faith effort to comply, the participant during the conciliation period must:

(i) be assessed or assigned, if he or she failed to be assessed or assigned;

(ii) complete the balance of job contacts or at least three verified contacts, if he or she failed to complete job search component; or

(iii) provide Form ~~TW-3~~ 08TW003E, if he or she failed to return Form ~~TW-3~~ 08TW003E from the WIA or OESC component.

(D) If conciliation has failed, mandatory disqualification periods are imposed. The disqualification period for households whose non-compliant E&T registrant is the head of household does not exceed the lesser of the duration of ineligibility listed in (i) through (iii) of this paragraph or 180 calendar days. For all other non-compliant E&T registrants, disqualification periods remain in effect until the later of the date the household member complies with the work rules or is disqualified for:

(i) the first violation, one month;

(ii) the second violation, three months; or

(iii) the third or subsequent violation, six months.

(E) The disqualification cannot be ended unless the required household member meets the criteria in (6)(D) of this subsection, leaves the household, or becomes exempt from work registration. If any household member who failed to comply with E&T joins another household as the head of household, the entire new household is ineligible for the remainder of the disqualification period. If the member who failed to comply with E&T joins another household where he or she is not the head of the household, the ~~individual~~ person is considered an ineligible household member.

(F) Households and ~~individuals~~ persons disqualified for failure to comply with E&T requirements may request a fair hearing and continue participation.

(G) If the participant fails to comply with E&T requirements and meets the definition of head of household, the ~~case is~~ food benefits are closed.

(H) If the participant fails to comply with E&T requirements and does not meet the definition of head of household, that ~~individual~~ person is removed from the case. His or her income and resources continue to be counted.

(I) For purposes of failure to comply with work requirements, the head of household is defined in OAC 340:50-5-90.

(J) The principal wage earner is the household member, including excluded members, who has the greatest earned income in the two months prior to the violation.

(7) **Good cause.** Good cause includes circumstances beyond the registrant's control, such as, but not limited to:

(A) illness;

(B) illness of another household member requiring the presence of the registrant;

(C) a household emergency;

(D) unavailability of transportation; or

(E) lack of adequate child care for children ages 6 through 11.

(8) **Suitable work.** Any employment offered is considered suitable:

(A) if the wage offered is at least the highest of the applicable federal minimum wage, the applicable state minimum wage, or 80% of the federal minimum wage, if neither the state nor federal minimum wage applies;

(B) if the employment offered is on a piece-rate basis and the average hourly wage the employee can reasonably expect is at least equal to the applicable hourly wages specified;

(C) if the registrant, in order to be hired or to continue working, is not required to join, resign from, or refrain from joining any legitimate labor organization;

(D) if the work offered is not at a site subject to a strike or lockout at the time of the offer unless the

strike has been enjoined under the Labor Management Relations Act (Taft-Hartley) or an injunction has been issued under Section 10 of the Railway Labor Act; or

(E) unless the registrant demonstrates or the worker determines the:

(i) risk to health and safety is unreasonable;

(ii) household member is physically or mentally unfit to perform the employment as documented by medical evidence or other reliable information;

(iii) employment offered within the first 30 calendar days of registration is not in the registrant's major field of experience;

(iv) distance from the registrant's home to the place of employment is unreasonable based on the expected wage and the time and cost of daily commuting. Commuting time cannot exceed two hours daily; or

(v) working hours or nature of the employment interferes with the registrant's religious observations, convictions, or beliefs.

(9) **Monitoring E&T.** The Family Support Services Division Food Stamp Section staff monitor the Food Stamp E&T Program.

SUBCHAPTER 7. FINANCIAL ELIGIBILITY CRITERIA

PART 1. RESOURCES

340:50-7-4. Special resource situations

(a) **Jointly owned resources other than vehicles.** Resources other than vehicles owned jointly by separate households must be considered available in their entirety to each household, unless the household can demonstrate such resources are inaccessible to the household.

(1) If the household can demonstrate it has access to only a portion of the resources, the value of that portion of the resource is counted toward the household's resource level.

(2) The resources are considered totally inaccessible to the household if the resource cannot practically be subdivided and the household's access to the value of the resource is dependent on the agreement of a joint owner who refuses to comply. For purposes of this provision, ineligible aliens or disqualified ~~individuals~~ persons residing with the household are considered household members.

(3) Resources are considered inaccessible to persons residing in shelters for battered women and children if:

(~~1~~A) the resources are jointly owned by such persons and by members of their former household; and

(~~2~~B) the shelter resident's access to the value of the resources is dependent on the agreement of a joint owner who still resides in the former household.

(b) **Non-recurring lump sum payments.** Money received in the form of a non-recurring lump sum payment such as income tax refunds, rebates, credits, and retroactive lump sum insurance settlements constitute a resource in the month received unless specifically excluded from consideration as a resource by federal law.

(1) Upon receipt of information that a certified household has received a non-recurring lump sum payment, the worker reviews the case file to determine if the amount received, in addition to the other resources listed on the application form, exceeds the resource limitation for the household.

(2) If the total amount exceeds the allowable resource limitation, the worker must close the ~~case~~ food benefits giving ten-day advance notice. If, within ten days, the household presents evidence that the resources have been depleted and are within the allowable resource limits, the ~~case~~ food benefits may be left open for the remainder of the certification period. If the household does not agree with the decision to terminate the ~~case~~ food benefits and requests a hearing, the food ~~stamp benefit~~ benefits may be continued pending a decision on the appeal.

(3) Any amount received by an income eligible Supplemental Security Income (SSI) recipient due to an underpayment or retroactive payment of SSI or Social Security benefits is excluded as a resource.

(c) **Non-excluded vehicles.** The equity in all vehicles, except those excluded in OAC 340:50-7-2, is considered. The amount of equity in excess of $5,000 is considered against the maximum allowable resource limit for the household.

(1) The current market value less encumbrances on the vehicle(s) is the equity.

(2) Only encumbrances that can be verified are considered in computing equity.

(3) The market value of each year's make and model is established on the basis of the average trade-in value.

(4) In the event the household and worker cannot agree on the value of the vehicle, the household secures written appraisals by two persons familiar with current values. If there is substantial unexplained divergence between these appraisals or between the blue book value and one or more of these appraisals, the worker and the household jointly arrange for the market value to be established by an appraisal made by a third person who is familiar with current values and acceptable to both the household and worker.

(d) **Resources of disqualified members or ineligible aliens.** All resources of disqualified members or ineligible aliens are considered in determining the eligibility of the remaining household members.

PART 3. INCOME

340:50-7-30. Self-employed households

Households whose income is derived either wholly or in part from a self-employment enterprise are treated in accordance with the procedures listed in paragraphs (1) through (9) of this Section.

(1) **Capital gains.** The proceeds from the sale of capital goods or equipment is income for program purposes and is calculated in the same manner as a capital gain for federal income tax purposes. Even though a percentage of the proceeds from the sale of capital goods or equipment is taxed for federal income tax purposes, the worker counts the full amount of capital gain as income.

(2) **Profit sharing.** Households who operate S corporations, general or limited partnerships, or limited liability companies may receive profit sharing that is reported on the household's personal income tax return. When a household member:

(A) actively participates in the operations, the income from profit sharing is considered part of the household's self-employed earned income; or

(B) does not actively participate in the operations, the income from profit sharing is considered part of the household's unearned income.

(3) **Self-employed farm income.** To be considered a self-employed farmer, the farmer must receive or anticipate receiving annual gross proceeds of $1,000 or more from the farming enterprise.

(A) Farming is defined as cultivating or operating a farm for profit either as owner or tenant.

(B) A farm includes stock, dairy, poultry, fish, fruit, and truck farms, and plantations, ranches, ranges, and orchards.

(i) A fish farm is an area where fish are grown or raised and where they are artificially fed, protected, and cared for, and does not include an area where they are only caught or harvested.

(ii) A plant nursery is a farm for purposes of this definition.

(4) **Monthly self-employment income.** Self-employment income received on a monthly basis but which represents a household's annual support is normally averaged over a 12-month period. If the averaged amount does not accurately reflect the household's actual monthly circumstances because the household has experienced a substantial increase or decrease in business, the worker calculates the self-employment income based on anticipated earnings.

(5) **Seasonal self-employment income.** Self-employment income intended to meet the household's needs for only part of the year is averaged over the period of time it is intended to cover. For example, the income of self-employed vendors who work only in the summer and supplement their income from other sources during the balance of the year is averaged over the summer months rather than a 12-month period.

(6) **Annualized self-employment income.** Self-employment income which represents a household's annual support must be annualized over a 12-month period, even if the income is received in a shorter period of time. For example, self-employment income received by crop farmers must be averaged over a 12-month period if the income represents the farmer's annual support.

(A) If the averaged annualized amount does not accurately reflect the household's actual circumstances because the household has experienced substantial increase or decrease in business, the worker calculates the self-employment income on anticipated earnings.

(B) The worker does not calculate self-employment income on the basis of prior earnings such as income tax returns when an increase or decrease of business has occurred.

(i) If the household's self-employment enterprise has been in existence for less than a year, the income from that self-employment enterprise must be averaged over the period of time the business has been in operation and the monthly amount projected for the coming year.

(ii) If the business has been in operation for a short time and there is insufficient data to make a reasonable projection, self-employment income is recomputed at each new certification until a full year's information is available.

(7) **Anticipated income.** When a household who would normally have the self-employment income annualized experiences a substantial increase or decrease in business, the worker calculates the self-employment income based on anticipated earnings.

(A) For those households whose self-employment income is calculated on an anticipated basis, the worker adds any capital gains the household anticipates it will receive in the next 12 months, starting with the date the application is filed, and divides this amount by 12. This amount is used in successive certification periods during the next 12 months except that a new average monthly amount must be calculated over this 12-month period if the anticipated amount of capital gain changes.

(B) The worker adds the anticipated monthly amount of capital gains to the anticipated monthly self-employment income, and subtracts the cost of producing the self-employment income.

(8) **Determining net monthly self-employment income.** ~~Self-employment income is not compared to~~ When the household has business expenses associated with its self-employment income, the business expenses must be deducted before determining whether the household meets the maximum gross income standards shown on Oklahoma Department of Human Services (OKDHS) Appendix ~~C-3~~ 08AX003E, Maximum Food Stamp Allotments and Standards for Deductions, Maximum Income, and Utilities~~, until after the business expenses have been deducted from the gross self-employment income~~. When the household does not have business expenses, the gross self-employment income is used.

(A) ~~To determine~~ When the household has filed an income tax return on its self-employment income for the most recent year, the worker uses the net ~~monthly~~ self-employment income~~, the worker:~~

~~(i) adds all the gross self-employment income, including capital gains;~~

~~(ii) subtracts 50% of the gross self-employment income for a household declaring business expenses or uses the net profit for the most recent tax year as reported on the person's income tax return; and~~

~~(iii)~~ shown on the income tax return and divides the net self-employment income by the number of months to be averaged.

(B) When the household did not file an income tax return on its self-employment income for the most recent year, the worker uses (i) through (iii) to determine the net monthly self-employment income.

(i) The gross self-employment income, including capital gains, is computed using the client's self-employment business records.

(ii) If the client declares they incurred business expenses, the worker then subtracts 50% of the gross self-employment income as business expenses. If the household did not incur business expenses, a business expense deduction is not given.

(iii) The worker then divides the net self-employment income by the number of months to be averaged.

(~~B~~C) The monthly net self-employment income is added to all other earned income received by the household.

(i) The total monthly earned income less the earned income deduction according to OKDHS Appendix ~~C-3~~ 08AX003E is then added to all other monthly income received by the household.

(ii) The standard deduction, dependent care, and shelter costs are computed as for any other household and subtracted to determine the monthly net income of the household.

(9) **Household with income from boarders.** A household that operates a commercial boarding house may be considered a food benefit household and self-employed as shown in paragraph (8) of this subsection. A household with boarders or roomers that is not a commercial boarding house may receive food benefits as shown in subparagraphs (A) through (C) of this paragraph.

(A) ~~Persons~~ A person paying a reasonable amount for room and board ~~are~~ is excluded from the household when determining the household's eligibility and benefit level. Payments from the boarder are treated as self-employment income if the boarder is paying a reasonable amount.

(i) The income from ~~boarders~~ a boarder includes all direct payments to the household for room and meals, including contributions to the household for part of the household shelter expense.

(ii) Shelter expenses paid directly by ~~boarders~~ a boarder to someone outside the household are not counted as income to the household.

(B) After determining the income received from the boarder, the worker excludes 50% of the boarder payment as the cost of doing business.

(C) The net income from self-employment is included with other earned income and the earned income deduction from OKDHS Appendix ~~C-3~~ 08AX003E is taken.

(i) Shelter cost the household actually incurred, even if the boarder contributes to the household for part of the household's shelter expense, is computed to determine if the household will receive a shelter deduction.

(ii) The shelter and utility cost must not include any expense billed to and directly paid by the boarder to a third party.

SUBCHAPTER 9. ELIGIBILITY AND BENEFIT DETERMINATION PROCEDURES

340:50-9-1. Determining the food ~~stamp~~ benefit allotment ~~and teleprocessing certifications~~

(a) **Cases with unverified deductible expenses.**

(1) **Food ~~stamp~~ benefits without deductions.** If a deductible expense which must be verified in accordance with OAC 340:50-7-31 cannot be verified before the 30-day processing standard for applications expires, the worker determines the household's benefit level without giving a deduction for the claimed but unverified expense. If the household:

(A) is eligible without allowing the expense, an allotment which does not reflect deduction of the expense is provided within 30 calendar days after the application is filed; or

(B) chooses to claim expenses for an unoccupied home, the worker verifies the household's utility expenses for the unoccupied home and uses the appropriate utility standard.

(2) **Benefits delayed.** If a deductible expense cannot be verified before the 30-day processing standard for applications expires and the household is ineligible unless the expense is allowed, the household application is held pending or denied.

(b) **Determining household eligibility.** In calculating net monthly income, cents are used in determining each source of each ~~individual's~~ person's monthly income and the household's monthly dependent care, shelter, legally binding child support payments or medical expense. When the monthly amount of each ~~individual's~~ person's source of income or each of the household's expenses is established, and at all other steps of the net income computation, cents are rounded to the nearest dollar, 1 cent through 49 cents is rounded down and 50 cents through 99 cents is rounded up. For example an ~~individual's~~ person's weekly earnings of $99.90 are multiplied by the number of checks that will be received in a month's time and the cents rounded to the nearest dollar, $99.90 x 4.3 = $429.57 rounded to $430. Due to changes in household composition or circumstances, households certified under gross income standards may become subject to net income standards during the certification period or vice versa. The worker is required to

change the one income standard to the other when any change is made in the case to adjust the household's eligibility, benefit level, or certification period, or at recertification, whichever is earlier.

(1) **Households without elderly or disabled members.** If the household does not have an elderly or disabled member, the household's total gross monthly income and household size are the first basis for determining eligibility. The household is not eligible if the total gross income exceeds the Maximum Gross Income Standard for the appropriate household size as shown on Oklahoma Department of Human Services (OKDHS) Appendix ~~C-3~~ 08AX003E, Maximum Food Stamp Allotments and Standards for Deductions, Maximum Income, and Utilities (Food Stamps). After gross income, resource, and non-financial conditions of eligibility are established, the net food ~~stamp~~ benefit monthly income is computed and compared to the Maximum Net Income Standard for the appropriate household size as shown on OKDHS Appendix ~~C-3~~ 08AX003E. If the net food ~~stamp~~ benefit income does not exceed this standard, the household is determined eligible. The steps in (A) through (H) of this paragraph are used to determine the household's net food ~~stamp~~ benefit monthly income if the household does not include an elderly or disabled member.

(A) Add gross monthly income earned by all household members including any net self-employment income minus the earned income exclusions to determine the household's total gross earned income.

(B) Multiply the total gross earned income by the appropriate earned income deduction according to OKDHS Appendix ~~C-3~~ 08AX003E and subtract that amount to determine the net monthly income. The earned income deduction is not allowed on any portion of income earned under a work supplementation or support program that is attributable to public assistance.

(C) Add the net monthly earned income and the total monthly unearned income of all household members, minus income exclusions.

(D) Subtract the standard deduction as shown in OKDHS Appendix ~~C-3~~ 08AX003E.

(E) Subtract monthly dependent care expenses, if any, up to the maximum amount allowed as shown in OKDHS Appendix ~~C-3~~ 08AX003E. A dependent care deduction cannot be allowed for dependent care expenses which are reimbursed or paid for under an Employment and Training Program or other source.

(F) Subtract verified legally-binding child support payments made to someone outside the food stamp household.

(G) Add the allowable shelter expenses to determine the total shelter costs. Subtract from the total shelter costs 50% of the adjusted income, the household's monthly income after all of the deductions given in subparagraphs (A) through (F) of this paragraph have been subtracted. The remaining amount, if any, is the excess shelter costs. If there are no excess shelter costs, the net monthly income has been determined. If there are excess shelter costs, go to the next step.

(H) To apply the excess shelter costs, subtract excess shelter costs from the adjusted income if the total of excess shelter costs does not exceed the maximum shown in OKDHS Appendix ~~C-3~~ 08AX003E. If the total of the shelter costs exceeds the standard shown in OKDHS Appendix ~~C-3~~ 08AX003E, only the amount not exceeding the standard is deducted.

(2) **Households with an elderly or disabled ~~members~~ member.**

(A) The steps listed in (i) through (ix) of this subparagraph are used to determine the household's net food stamp income if the household includes an elderly or disabled member.

(i) Add gross monthly income earned by all household members, including any net self-employment income minus the earned income exclusions, to determine the household's total gross earned income.

(ii) Multiply the total gross earned income by the appropriate earned income deduction from OKDHS Appendix ~~C-3~~ 08AX003E and subtract that amount to determine the net monthly income. The earned income deduction is not allowed on any portion of income earned under a work supplementation or support program that is attributable to public assistance.

(iii) Add the net monthly earned income and the total monthly unearned income of all household members, minus income exclusions.

(iv) Subtract the standard deduction as shown in OKDHS Appendix ~~C-3~~ 08AX003E.

(v) Subtract medical expenses which exceed $35 for the elderly or disabled household members only. Thirty-five dollars is subtracted only once for the household rather than for each household member.

(vi) Subtract monthly dependent care expenses, if any, up to the maximum amount allowed as shown in OKDHS Appendix ~~C-3~~ 08AX003E. A dependent care deduction cannot be allowed for dependent care expenses which are reimbursed or paid for under an Employment and Training Program or other source.

(vii) Subtract verified legally-binding child support payments made to someone outside the food stamp household.

(viii) Add the allowable shelter expenses to determine the total shelter costs. Subtract from the total shelter costs 50% of the adjusted income, the household's monthly income after all of the deductions in (i) through (vi) of this subparagraph have been subtracted. The remaining amount, if any, is the excess shelter costs. If there are no excess shelter costs, the net monthly income has been

determined. If there are excess shelter costs, go to the next step.

(ix) To apply the excess shelter costs, subtract excess shelter costs from the adjusted income.

(B) When a household that includes an elderly or disabled member meets the other resource and non-financial conditions of eligibility, the household's net food ~~stamp~~ benefit monthly income and household size are the basis for determining eligibility. The net food ~~stamp~~ benefit monthly income is compared to the Maximum Net Income Standards for the appropriate household size as shown on OKDHS Appendix ~~C-3~~ 08AX003E. If the net food ~~stamp~~ benefit income does not exceed this standard, the household is determined eligible.

(c) **Food ~~stamp~~ benefit allotment.**

(1) **Initial month proration.**

(A) Initial month means the first month the household is certified for food ~~stamp~~ benefits following any period during which the household was not certified. Food ~~stamp~~ benefit allotments for an initial month are based upon the date of the application and prorated from the date of application.

(i) Proration of benefits from the application date applies to the new case if one food ~~stamp~~ benefit household separates into two or more food ~~stamp~~ benefit households.

(ii) Migrant and seasonal farm ~~workers~~ worker's food benefits are not prorated when the household has received food ~~stamp~~ benefits in the prior month.

(iii) While a household's eligibility for the initial month is determined by considering the household's circumstances for the entire month of application, the benefit is based on the day of the month the household applies for benefits.

(iv) The monthly benefit that the recipient would be eligible to receive if proration did not apply must be determined prior to computation by using the prorated benefit on OKDHS Appendix ~~B~~ 08AX009E, Proration Table for TANF and Food Stamp Benefits: Proration Payment Form, or by using the formula: (31 minus the application date) x monthly benefit divided by 30 = the prorated benefit.

(B) The prorated benefit is rounded down to the lower dollar. If the answer is less than $10, the household is denied for the month of application but certified for the next month. If the household applies on the 31st day of the month, use the 30th for the application date for purposes of this provision. Households that apply after the 15th of the month are issued the prorated benefits for the month of application and the benefits for the first full future month on the same day.

(C) When a household is certified for the month following the month of initial application because the household failed to furnish necessary information, benefits are prorated from the date the household furnished the information. The application date becomes the date information was furnished to OKDHS.

(2) **Monthly benefit.** The monthly benefit for all months except the initial month is the amount listed on OKDHS Appendix ~~C-3~~ 08AX003E for the appropriate household size and net income.

~~(d) **Certification periods.** Definite periods of time are established for each eligible household to receive benefits. At the expiration of each certification period, entitlement to food stamp benefits is established only upon a recertification based upon a newly completed application, an interview, and required verification provided. [OAC 340:50-3-2] Under no circumstances are benefits continued beyond the end of a certification period without a redetermination of eligibility. The month of application is the first month in the certification period for initial applicants if eligibility is determined within the 30-day period. Because of anticipated changes, a household may be eligible for the month of application but ineligible for the subsequent month. In this situation, the household is certified for the month of application only. If a household is found to be ineligible and is denied benefits for the month of application but is eligible for subsequent months, a new application form is not needed and the case is certified effective the month following the month of application. During the application process a household who did not appear for their first scheduled interview may request a new interview date be scheduled through the 30th day following their application date. See delayed applications in paragraph (1) of this subsection to determine the proration date of the food stamp benefit allotment. When an application is denied because the household did not provide the requested information and the applicant furnishes the required information and an eligibility determination can be made within the second 30-day period, no new application is required. The case is then certified using the date the information or verification is furnished as the application, certification, or proration date.~~

(~~1~~d) **Delayed applications.** Applications that are not approved or denied by the 30th calendar day are considered delayed applications. On the 30th calendar day following the application date, every delayed application is assessed to determine who caused the delay. The purpose of this assessment is to determine if the benefits are denied and what date is used to prorate benefits if the household is determined eligible at a later date.

(~~A~~1) **Delay caused by the Oklahoma Department of Human Services (OKDHS).** When the processing delay is caused by OKDHS, the application remains in pending status. At the end of the first 30 calendar days the household is notified of the reason the application is still pending using Form ~~ABCDMS-37-A~~ 08MP039E, Notice to Client of Action Taken. If the household is later determined eligible, the case is certified back to the date of application. OKDHS caused delays include, but are not limited to, the circumstances given in ~~(i)~~(A) through ~~(vi)~~(F) of this subparagraph.

(~~i~~A) The household's first interview was scheduled on or before the 20th day following the date of application. The household appeared for the interview but

subsequently failed to provide the required verification. During the interview the worker did not explain to the household or provide the information in writing regarding:

(~~I~~i) what factors must be verified;

(~~II~~ii) what is considered acceptable verification; or

(~~III~~iii) by what date the information must be supplied.

(~~ii~~B) An interview was never scheduled for the household.

(~~iii~~C) The worker did not offer or provide assistance to the household in obtaining the verification as required or did offer assistance but failed to follow through on collateral contacts or release of information.

(~~iv~~D) The worker discovered that additional information was required after the interview but the client did not have ten calendar days between the request for the verification and the 30th calendar day of the application process.

(~~v~~E) The household missed their first interview on or before the 30th calendar day and requested that the interview be rescheduled. The ~~county~~ human services center (HSC) was unable to schedule the second interview date until after the 30th calendar day.

(~~vi~~F) The eligible household provided all the required verification on or before the 30th day, and the application was not approved or denied.

(~~B~~2) **Delay caused by the household.** When the processing delay is caused by the household, the application is denied on the 30th calendar day. The household is notified by computer-generated notice that the application is denied. When the household provides the required verification in the second 30 calendar days, ~~no~~ a new application is not required. If the household is determined eligible, the food ~~stamp~~ benefit allotment is prorated from the date the household provided the verification. Household caused delays include, but are not limited to, the circumstances given in ~~(i)~~(A) through ~~(iii)~~(C) of this subparagraph.

(~~i~~A) The household's first interview was scheduled on or before the 20th calendar day following the date of application. The household appeared at the interview but subsequently failed to provide the required verification. The worker provided the household with a statement of required verification, offered to assist the household in obtaining the verification, and also allowed the household sufficient time to provide the verification.

(~~ii~~B) The household missed their first interview and requested on or before the 30th calendar day that the interview be rescheduled. The interview was rescheduled to be held on the 30th calendar day; however, the household did not provide all the required verification at the rescheduled interview.

(~~iii~~C) The household missed their first interview and requested on or before the 30th calendar day that the interview be rescheduled. The household stated they could not come in until after the 30th calendar day.

(e) **Certification periods.** Definite certification periods are established for each eligible household to receive benefits. At the expiration of each certification period, entitlement to food benefits is established only upon a recertification based upon a newly completed application, an interview, and required verification provided. [OAC 340:50-3-2] Under no circumstances are benefits continued beyond the end of a certification period without a redetermination of eligibility.

(1) **Month of application.** The month of application is the first month in the certification period for initial applicants if eligibility is determined within the 30-day period.

(A) Because of anticipated changes, a household may be eligible for the month of application but ineligible for the subsequent month. In this situation, the household is certified for the month of application only.

(B) If a household is found to be ineligible and is denied benefits for the month of application but is eligible for subsequent months, a new application form is not needed and the case is certified effective the month following the month of application.

(2) **Missed interview.** During the application process, a household who did not appear for their first scheduled interview may request a new interview date be scheduled through the 30th day following their application date. See delayed applications in paragraph (d) of this Section to determine the proration date of the food benefit allotment.

(3) **Information furnished after the application is denied.** When an application is denied because the household did not provide the requested information and the applicant furnishes the required information to determine eligibility within the second 30-day period, a new application is not required. The worker certifies food benefits using the date the information or verification is furnished as the application, certification, or proration date.

(~~2~~f) **Length of certification periods.** Households are assigned the longest certification period possible based on the predictability of the household's circumstances. In ~~(C)~~(3) and ~~(D)~~(4) of this paragraph, the length of the incapacity must be expected to exceed the length of the certification period.

(~~A~~1) **One month.** A one-month certification is assigned to:

(~~i~~A) households eligible only for the month of application; and

(~~ii~~B) migrant farm worker households, in the work stream, who apply before the 16th of the month.

(~~B~~2) **Two months.** A two-month certification is assigned to:

(~~i~~A) households eligible only for the month of certification and subsequent month; and

(~~ii~~B) migrant farm worker households, in the work stream, who apply after the 15th of the month.

(~~C~~3) **Three to six months.** A three to six-month certification is assigned to all households with circumstances not addressed in subparagraphs ~~(A)~~(1), ~~(B)~~(2), or ~~(D)~~(4) of this paragraph. Information used as guidelines for the

length of certification periods for groups listed in this subparagraph is given in (A)(i)~~(I)~~ through ~~(III)~~(iii) of this subparagraph.

(~~i~~A) The worker reviews the case carefully to see if there have been overissuances or underissuances due to the household's failure to report:

(~~I~~i) changes in income;

(~~II~~ii) changes in household composition; or

(~~III~~iii) moving from residence to residence, thereby changing the shelter expense.

(~~ii~~B) The factors in (A)(i)~~(I)~~ through ~~(III)~~(iii) of this subparagraph are some of the factors to be checked, but are not meant to be all inclusive. At the discretion of the worker, a shorter certification period may be assigned. The length of the certification period assigned groups in this subparagraph is based on review of the history of the household and the judgment of the worker.

(~~D~~4) **Twelve months.**

(~~i~~A) A 12-month certification period is assigned to non-public assistance (non-PA) households at certification unless:

(~~I~~i) the household includes an able-bodied adult without dependents member who is not meeting the work requirement or is not otherwise exempt; or

(~~II~~ii) all adult household members are elderly or disabled with no earned income.

(~~ii~~B) These households are required to complete Form ~~FSS-BR-1~~ 08MP004E, Benefit Review Report, at six-month intervals. They are known as semi-annual reporters.

(~~E~~5) **Twenty-four months.** A 24-month certification period is assigned to non-PA households when all adult members are elderly or disabled with no earned income. These households are required to complete Form ~~FSS-BR-1~~ 08MP004E at 12-month intervals. They are known as annual reporters.

340:50-9-6. Procedures relating to food ~~stamp~~ benefit recertification

(a) **Worker action.** The worker completes the application process, approves or denies applications for recertification, and provides eligible households with an opportunity to participate in a timely manner. The worker cannot continue benefits to the household beyond the certification period unless the household is recertified.

(b) **Notice of expiration.**

(1) After deadline the month prior to the last month of the certification period, the Family Support Services Division prepares and mails Form ~~FSP-36~~ 08FB036E, Notice of Expiration of Eligibility, to all ~~Non-PA~~ non-public assistance (non-PA) households receiving food ~~stamps~~ benefits who have been certified for three months or more. Form 08FB36E has a section the household can complete and return to the local Oklahoma Department of Human Services (OKDHS) human services center office to reapply. The form ~~shows~~ informs households:

(A) it has the right to apply;

(B) when food ~~stamp~~ benefits ~~will~~ expire ~~and informs the household~~;

(C) when to make reapplication to avoid lapse of benefits~~. Households~~;

(D) they must reapply by the 1st day of the last month of eligibility to avoid a lapse of benefits~~. Form FSP-36 has a section the household can complete and return to the local Oklahoma Department of Human Services (OKDHS) county office to reapply. The right to apply is included on Form FSP-36~~; and

(E) ~~informs the household~~ that further entitlement to food ~~stamp~~ benefits cannot be established without reapplication by the household, an interview, and recertification of the household's eligibility.

(2) Households certified for two months or less are notified by computer-generated notice of the effective date and expiration date of the certification. The notice is generated and mailed at the time the household is certified eligible.

(c) **Timely recertification.**

(1) Reapplications are processed within the time frames described in (A) through (B) of this subsection.

(A) **Prior certification of fewer than three months.** A household with a prior certification period of fewer than three months and who apply by the 1st day of the last month of the certification period are provided with the opportunity to participate, if eligible, no later than 30 calendar days after the date the household last had an opportunity to obtain its food ~~stamp~~ benefits.

(B) **Prior certification of three months or more.** Reapplications filed on or before the 1st day of the last month of the certification period are considered timely reapplications. If the household meets all of the requirements and completes all the processing steps, the worker certifies or denies the application prior to the end of the certification period.

(i) ~~In addition, any~~ Any eligible household who reapplies timely is provided an opportunity to participate by its normal issuance date in the month following the end of the current certification period.

(ii) ~~In order to~~ To retain this right to uninterrupted benefits, the household must have attended any interview and/or provided all required verification due on or after the deadline for filing timely reapplications.

(iii) Although a household loses its right to uninterrupted benefits, it retains its right to complete the process and receive benefits, if eligible, within 30 calendar days of the application date.

(2) Households who have timely reapplied but, due to worker error, are not timely determined eligible are recertified and given an opportunity to participate immediately upon being determined eligible. If the delay in recertification extends into the following month, the certification

is made retroactive to the first day of the month following expiration of the certification period.

(3) A household applying for recertification in the last month of its certification period is not entitled to expedited services. When the recertification is teleprocessed on or before the last day of the month of the old certification period, the subsequent month's benefit is issued on the second working day of the month.

(d) **Untimely reapplication.** A household who fails to submit a timely application for recertification, without good cause, loses its right to uninterrupted benefits, and the worker has 30 calendar days to certify or deny the application and provide an opportunity to participate if the household is eligible. If an application for recertification is not received until after the certification period expired, then that application is considered an initial application and benefits for that month are prorated. Even though a household fails to make a timely reapplication they are entitled to expedited service if the household qualifies under OAC 340:50-11-1.

(e) **Good cause for failure to timely reapply.** If the worker determines that the household's failure to make timely application or to otherwise complete the certification process in a timely manner was for good cause, the household is entitled to restoration of lost benefits if, as a result of its failure, the household was unable to participate in the month following the expiration of its certification period. Determination of good cause is made on a case-by-case basis, and includes, but is not limited to, failure to receive timely notice of expiration, or personal illness.

SUBCHAPTER 10. ELECTRONIC BENEFIT TRANSFER (EBT)

340:50-10-7. Inactive accounts [REVOKED]

~~Accounts with benefits which have not been accessed within the last 90 days are considered dormant. The recipient is advised he or she is still eligible for the benefits in the account. He or she must contact the county office to reactivate the Electronic Benefit Transfer (EBT) account.~~

SUBCHAPTER 11. SPECIAL PROCEDURES

PART 1. HOUSEHOLDS ENTITLED TO EXPEDITED SERVICE

340:50-11-5. Procedures for expediting services

To expedite the certification process, the ~~social services specialist~~ worker must verify the applicant's identity. All reasonable efforts to verify the household's residency, income ~~statement~~ declaration including a statement that the household has no income, liquid resources, and other factors of eligibility is made. Verification is done by seeing documentary evidence or through a collateral contact when documentary evidence is not readily available. Verification of factors other than identity that could not be made during the expedited service processing time limits may be postponed. ~~It~~ In most instances, it is expected that at least residence, income, and resources ~~should be able to be~~ are verified within the time limit. Benefits cannot be delayed beyond the time limit solely because factors other than identity were not verified.

(1) Except for the applicant, work registration of household members may be postponed when it cannot be accomplished within the expedited service processing time limit.

(2) Households entitled to expedited service are asked to furnish a Social Security number for each person applying for benefits before the second full month of participation with the exception of newborns.

(3) Households who have furnished all necessary verification for determining continued eligibility are certified for a normal certification period. If verification is postponed, the household is provided with Form ~~ADM-92~~ 08AD092E, ~~County~~ Client Contact and Information Request, listing needed verification. These verifications must be furnished within 30 calendar days of the application date.

(4) When verifications are received, the household is approved for a normal certification period, if eligible. This approval must be completed and teleprocessed within seven days of the receipt of the verification.

(5) If, after certification with postponed verification, the household reapplies for food ~~stamps~~ benefits on an expedited basis, the household must ~~complete~~ provide verifications required which were postponed on the previous application before it is entitled to expedited service. There is no limit to the number of times a household can be certified under expedited procedures as long as prior to each expedited certification the household either completes the verification requirements that were postponed at the last expedited certification or was certified under normal processing standards since the last expedited certification.

PART 3. SIMPLIFIED FOOD STAMP PROGRAM (SFSP) FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) AND COMPANION STATE SUPPLEMENTAL PAYMENT (SSP) RECIPIENT(S)

340:50-11-27. Changes after application and during the certification period

Households are required to report changes in accordance with ~~OAC 340:65-3-1~~ OAC 340:65-5. At each application or redetermination, households are advised of their reporting responsibilities. Households are given a supply of Form ~~FSP-38~~ 08FB038E, Changes in Household Circumstances, and advised to contact their worker to request additional forms as needed.

(1) **Reported change results in closure of TANF.** When the Temporary Assistance for Needy Families (TANF) cash assistance is closed:

(A) the worker closes the food benefits the same effective date as the TANF cash assistance closure when the TANF is closed as a result of:

(i) death of the payee;

(ii) failure or refusal to participate in TANF Work;

(iii) the household moves out of state; or

(iv) the household requests closure of the TANF cash assistance and food benefits;

(B) the computer converts the food benefits to transitional food benefits (TFB) when the TANF cash assistance is closed for reasons other than those listed in (A) of this paragraph and:

(i) there is no companion State Supplemental Payment (SSP) case; or

(ii) the TANF case is the primary food benefit case, and the companion SSP case remains open.

(C) the computer converts the food benefits to non-PA food benefits when the TANF cash assistance is closed for reasons other than those listed in (A) of this paragraph and the companion SSP case, which is the primary food benefit case, remains open.

(2) **Reported changes during the TFB certification period.** The household is not required to report changes timely while receiving TFB. If there is an application for TANF while in TFB status, at certification of the TANF cash assistance, food benefits are converted to Simplified Food Stamp Program (SFSP) as long as all household members are receiving cash assistance.

(3) **Notifications.** The TANF applicant is given a copy of the signed and dated ~~Form FSS-1, Comprehensive Application and Review,~~ application form which informs the applicant food benefit eligibility is determined using information contained in ~~Form FSS-1~~ the application. Notification of eligibility is required at certification and any time the food benefit amount changes. The notice is computer-generated.

PART 5. RESTORATION OF LOST BENEFITS

340:50-11-46. Restoration of lost benefits

(a) **~~Social services specialist~~ Worker responsibility.** ~~Households receive restored~~ A worker is responsible to restore lost benefits when the ~~lost benefits were~~ loss was caused by ~~Agency~~ Oklahoma Department of Human Services (OKDHS) error. ~~The county office authorizes restoration of the lost benefits.~~ Benefits cannot be restored if they are lost more than 12 months prior to the most recent of the:

(1) month the ~~local office~~ worker was notified by the household, by another person, or an agency in writing or orally of the possible loss to the specific household;

(2) month the ~~county office~~ worker discovered in the normal course of business that a loss to a specific household has occurred;

(3) date the household requested a fair hearing to contest the adverse action which resulted in the loss; or

(4) date the household initiated court action.

(b) **Error discovered by ~~the county office~~ human services center (HSC) staff.** If ~~the county office~~ HSC staff determines that a loss of benefits has occurred and the loss was not caused by the household, the ~~social services specialist~~ worker takes action to restore any benefits that were lost. No action by the household is necessary.

(c) **Disputed benefits.**

(1) If ~~the county office~~ HSC staff determines a household is entitled to restoration of lost benefits but the household does not agree with the amount to be restored, the household may request a fair hearing. If a fair hearing is:

(A) requested prior to or during the time lost benefits are being restored, the household receives the lost benefits as determined by the ~~social services specialist~~ worker pending results of the fair hearing~~.~~; and

(B) ~~If the fair hearing is~~ favorable to the household, the ~~county office~~ worker restores the lost benefits in accordance with that decision.

(2) If the household believes it is entitled to restoration of lost benefits and after reviewing the case file the ~~county office~~ HSC staff does not agree, the household has 90 days from the date of the ~~county office~~ HSC decision to request a fair hearing. The ~~county office~~ HSC restores lost benefits to the household only if the fair hearing decision is favorable to the household.

(d) **Computing amount to be restored.** After correcting the loss for future months and excluding the months for which benefits have been lost prior to the 12-month time limit, the ~~county office~~ worker calculates the amount to be restored.

(1) If the loss resulted in an incorrect allotment but the household was determined eligible, the loss of benefits is calculated only for those months the household participated.

(2) If the loss was caused by incorrect delay, denial, or termination of benefits, the months affected by the loss are calculated according to subparagraphs (A) or (B) of this paragraph.

(A) If an eligible household's application was erroneously denied, the month the loss initially occurred is the month of application, or, for an eligible household filing a timely reapplication, the month following the expiration of its certification period.

(B) If a household's benefits were erroneously terminated, the month loss initially occurred is the first month benefits were not received as a result of the erroneous action.

(3) Lost benefits are computed beginning with the month the loss initially occurred and ending either the first month the error is corrected or the first month the household is found ineligible.

(e) **Offsetting claims.** If ~~a claim against a~~ the household ~~is~~ has an unpaid overpayment or an overpayment held in suspense, the amount to be restored is offset against the amount of the ~~claim~~ overpayment. The balance, if any, is restored to the household. Benefits received at initial certification or because of retroactive certification are not used to offset claims against a household.

(f) **Lost benefits to ~~individuals~~ persons disqualified for willful misrepresentation.** ~~Individuals~~ A person disqualified for willful misrepresentation ~~are~~ is entitled to restoration of any benefits lost during the months ~~they were~~ the person was disqualified only if the decision which resulted in disqualification is subsequently overturned or reversed. ~~An individual~~ A person is not entitled to restoration of lost benefits for the period of disqualification based solely on the fact that a criminal conviction could not be obtained, unless the ~~individual~~ person successfully challenged the disqualification in a separate court action.

(1) For each month the ~~individual~~ person was disqualified, the amount to be restored, if any, is determined by comparing the allotment the household received with the allotment the household would have received had the disqualified member been allowed to participate.

(2) The disqualification period cannot exceed 12 months prior to the date ~~the Agency~~ OKDHS was notified of lost benefits.

(3) If the household received a smaller allotment than it should have received, lost benefits ~~will be~~ is the difference between the amount the household was entitled to receive and what they actually received.

(g) **Method of restoration.** Whether the household is currently eligible or ineligible, the ~~county office~~ worker restores benefits equal to the amount of benefits that were lost. The amount of restoration is issued in addition to the allotment currently eligible households are entitled to receive.

PART 12. CATEGORICALLY ELIGIBLE HOUSEHOLDS

340:50-11-111. Categorically eligible household

(a) **Purpose.** This Part includes the requirements for establishing categorically eligible households for the Food Stamp Program.

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

(1) **"Categorically eligible household"** means any household, as defined in OAC 340:50-11-20, in which all members receive or are authorized to receive:

(A) Supplemental Security Income (SSI);

(B) a Temporary Assistance to Needy Family (TANF) benefit; or

(C) a combination of SSI and TANF.

(2) **"Authorized to receive"** means that the person has been determined eligible for benefits and has been notified of this determination even though the benefits have not yet been received.

(c) **Suspended, recouped, or benefit not issued.** The fact that TANF or SSI benefits have been suspended, recouped, or are less than the minimum amount paid will have no impact on a determination of categorical eligibility.

(d) **Ineligible households.** A household may not be classified as a categorically eligible household when:

(1) the entire household is institutionalized and the institution is not listed at OAC 340:50-5-25 as an institution where residents may participate in the Food Stamp Program; or

(2) any member of the household is disqualified for an intentional program violation as defined in OAC 340:50-15-25.

340:50-11-112. When to classify categorically eligible households

(a) Food benefit households are immediately classified as a categorically eligible household when all household members receive:

(1) Supplemental Security Income (SSI);

(2) Temporary Assistance for Needy Families (TANF) cash assistance; or

(3) a combination of TANF cash assistance and SSI benefits.

(b) For all other food benefit households, the worker must determine if the household is categorically eligible when:

(1) an application for food benefits is about to be denied because the household has resources or income over the Food Stamp Program standards; or

(2) a food benefit case is about to be closed because the household has resources or income over the Food Stamp Program standards.

340:50-11-113. Financial eligibility factors

A categorically eligible household is not subject to the resource and income limitations of the Food Stamp Program.

(1) **Resources.** These households are considered resource eligible without verification.

(2) **Income.** These households have neither gross nor net income limits. The worker must verify the household's income.

340:50-11-114. Non-financial eligibility factors

(a) All household members must meet the citizenship requirements per OAC 340:50-5-67. If an individual's status as a United States (U.S.) citizen or non-citizen national is questionable and was verified for another program, the worker accepts participation in that program as proof of citizenship or lawful alien status.

(b) Aliens who are otherwise ineligible for food benefits are not automatically eligible for food benefits because they receive Supplemental Security Income (SSI). The citizenship requirements supersede the categorical eligibility requirements.

(c) A categorically eligible household is considered as having met the Social Security number (SSN) information, sponsored alien information, and residency requirements for food benefit purposes.

(d) If all household members receive or have been authorized to receive SSI benefits and the household is otherwise entitled to be categorically eligible per OAC 340:50-11-111,

the household is assumed to have met the Food Stamp Program residency requirements, SSN requirements, resource limits, and net income limits. All household members must meet the citizenship requirements per OAC 340:50-5-67.

(e) If a household is classified as a categorically eligible household because all household members receive Temporary Assistance for Needy Families (TANF) cash assistance as listed in OAC 340:50-11-20, the household is assumed to have met the Food Stamp Program residency requirements, resource limits, and net income limits.

340:50-11-115. Review of categorical eligibility

For all households, the household's categorical eligibility status must be reviewed when all or some of the household members lose eligibility for Supplemental Security Income (SSI) or Temporary Assistance for Needy Families (TANF) unless these benefits are being recouped or suspended.

(1) If the household continues to be categorically eligible, the food benefit portion of the case is not closed due to excess resources or income.

(2) If the household is no longer categorically eligible, the food benefits are closed when the household's income or resources exceed Food Stamp Program limits.

SUBCHAPTER 13. FAIR HEARINGS

340:50-13-1. ~~Hearing based on complaints~~ Complaints of alleged discriminatory conditions or practices

See ~~Subchapter 5 of Chapter 2~~ OAC 340:1-11-21 for procedures in handling ~~such~~ complaints of alleged discriminatory conditions or practices.

340:50-13-2. Hearing based on any action relating to a food ~~stamp application~~ benefit or case

(a) **Client rights.** Every applicant and participating household has the right ~~of~~ to appeal ~~on~~ any action relating to their food ~~stamp~~ benefit application or case. Applicants and recipients are advised orally as well as in writing of their right to a fair hearing and of the procedures for appealing any decision.

(b) **Hearing request.** Every applicant and participating household who believes proper consideration has not been given to the circumstances surrounding their situation may request a hearing. This request may be made orally or in writing.

(1) When the aggrieved client chooses to orally request a hearing instead of making a written request, the client is given an opportunity to review the situation with a supervisory or administrative staff member in the local office. If the situation is not resolved in the review or the aggrieved client does not wish to review the situation with local supervisory or administrative staff, a memorandum is prepared summarizing the client's reason(s) for requesting a fair hearing and the identifying portion of Form ~~H-1~~ 13MP001E, Request for a Fair Hearing, is completed. ~~The memorandum and Form H-1 are prepared in triplicate. The original is submitted to the Oklahoma Department of Human Services (OKDHS), Attention: Appeals Unit, with a copy given to the client, and a copy filed in the local case record.~~

(2) Households wishing to contest a denial of expedited service must be given an opportunity to have an OKDHS conference scheduled within two working days unless the household requests it be scheduled later or states it does not wish to have an OKDHS conference. The conference is handled in accordance with procedures in OAC 340:2-5-61. A fair hearing must be held if the issue is not resolved or the household does not withdraw its request for a fair hearing by signing Form ~~H-3~~ 13MP004E, Withdrawal of Request for Hearing.

(c) **Participation during appeal.** ~~If~~ When a household requests a hearing during the ten-day advance notice period, the household can choose to continue participation on the basis of the household's situation authorized immediately prior to the notice of adverse action. If the appeal is not sustained, the client is required to reimburse the benefits received ineligibly. If the household chooses not to continue participation on the basis immediately prior to the notice of adverse action and the appeal is sustained, the household is entitled to the retroactive benefits lost during the appeal period.

(1) ~~If~~ When the household ~~failed~~ fails to request continuation of benefits within the advance notice period and later establishes there was good cause for the failure, the worker reinstates the benefits to the prior basis.

(2) ~~If~~ When benefits are reduced or terminated as a result of a mass change without individual notice of adverse action, OKDHS, upon request of the household, reinstates benefits if the issue being appealed is that eligibility or benefits were improperly computed.

(3) ~~If~~ When a household requests a hearing and continuation of benefits as a result of ~~action(s)~~ an action taken by OKDHS at initial certification or on a subsequent application, benefits are not reinstated or continued except as authorized at such initial or subsequent certification.

(d) **Reduction or termination prior to hearing decision.** Once continued, benefits are not reduced or terminated prior to a hearing decision except under the circumstances in (1) and (2) of this subsection.

(1) **Change in circumstances while hearing is pending.** If a change in circumstances, other than the issue being appealed, occurs while the hearing decision is pending which affects the household's eligibility or basis of issuance and the household does not request an additional hearing and continuation of benefits after the notice of adverse action, such action is initiated by the worker. The benefit allotment must be based on any income the household had prior to the first notice of adverse action.

(2) **Notification to household.** The head of the household is mailed written notice of the decision of the Appeals Committee per OAC 340:2-5-76 and is apprised of the reason for the decision. At the same time, the head of the household is advised of any further right to appeal.

(e) **Hearing decision.** Decisions of the Appeals Committee may not run counter to federal law, regulation, or policy. The hearing is conducted, a decision is reached, and the household

and ~~county office~~ human services center are notified within 60 calendar days of receipt of the fair hearing request. A decision which results in an increase in household benefits is reflected in the benefit within ten days of the receipt of the hearing decision.

[OAR Docket #08-466; filed 3-27-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 65. PUBLIC ASSISTANCE PROCEDURES

[OAR Docket #08-467]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Eligibility for Benefits
340:65-3-1 [AMENDED]
340:65-3-6 [AMENDED]
340:65-3-6.1 [AMENDED]
340:65-3-8 [AMENDED]
Subchapter 5. Procedures Relating to Case Changes
Part 3. Procedures for Handling Warrants in Special Circumstances
340:65-5-15 through 340:65-5-20 [AMENDED]
340:65-5-21 [REVOKED]
Part 7. Guardianships ~~and~~, Conservatorships, and Substitute Payees
340:65-5-66 [NEW]
Part 9. Protective Payments in TANF [REVOKED]
340:65-5-80 through 340:65-5-81 [REVOKED]
340:65-5-85 [REVOKED]
340:65-5-87 [REVOKED]
Subchapter 9. Overpayments and Fraud in Temporary Assistance for Needy Families and State Supplemental Payment Benefits
340:65-9-1 through 340:65-9-2 [AMENDED]
340:65-9-3 [REVOKED]
340:65-9-4 through 340:65-9-8 [AMENDED]
(Reference APA WF 07-18 and 07-26)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Sections 161 et seq., 185, 190, and 191 of Title 56 of the Oklahoma Statutes, Section 41.19 of Title 62 of the Oklahoma Statutes (O.S.); Section 34 of Title 74 of the Oklahoma Statutes; and Section 71 of Title 56; and Section 20j of Title 74 of the Oklahoma Statutes.
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N/A
ANALYSIS:
The revisions to Subchapters 3, 5, and 9 of Chapter 65 amend rules to: (1) provide current information regarding direct deposit procedures and new debit card procedures for the Temporary Assistance for Needy Families (TANF) and State Supplemental Payment (SSP) Programs; (2) remove TANF from the electronic benefits transfer (EBT) rules; (3) remove TANF and SSP payments from warrant procedures since they are now issued by direct deposit or debit card; (4) show current form numbers and names; (5) detail current procedures used by the Finance Division and the Office of State Finance for handling warrants; (6) change the restriction on the reissuance of a warrant to 36 months following the month of its cancellation rather than three years to match language in the state statute; (7) replace outdated language with current terminology; (8) revoke one Section that only applied to TANF warrants; (9) add a new Section about substitute payees for TANF; (10) revoke rules regarding protective payments in TANF; (11) add current responsibilities for who writes and establishes overpayments; (12) revise the name of the Family Support Services Division (FSSD) Section that receives overpayments; (13) remove information about overpayments classified in a court of law as fraud; (14) update the percentage of the client's monthly benefit reduction when an overpayment is due to agency error from 5 percent to 10 percent; (15) revoke a Section regarding procedures for referring overpayments and incorporate still current information into another Section; (16) include current procedures when collection of debt efforts are suspended; (17) establish rules regarding the verification of the lawful presence in the United States for persons 14 years of age or older who are applying for state or federal public benefits; (18) amend form names and numbers to reflect changes made to the application forms to address citizenship requirements; (19) add comprehensive information by program regarding when an interview is required for an application; (20) update form numbers; (21) add comprehensive information by program regardingwhen an interview is required for a review/recertification and a signature is required on a review/recertification form; and (22) add clarifying information regarding time frames for when a review/recertification must be completed by program.
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2008:

SUBCHAPTER 3. ELIGIBILITY FOR BENEFITS

340:65-3-1. Determination of eligibility

(a) **Eligibility determination.** The determination of eligibility is a continuous process that begins with an application. It includes the final disposition of the application and all subsequent activities related to determining continuing eligibility. The ~~client~~ applicant has the right and the responsibility to participate in the eligibility determination and is relied on as the first source of information.

(1) In instances when it is difficult for the applicant to complete the application, someone acting on the applicant's behalf such as an authorized representative or a person with power-of-attorney may complete the application for all programs except Temporary Assistance for Needy Families (TANF).

(2) When someone other than the applicant applies on behalf of the applicant, he or she must bring a signed statement from the applicant giving this person permission to act on behalf of the applicant or the applicant must have designated this person as his or her authorized representative on the signed application. The SoonerCare (Medicaid) programs allows others to apply for the applicant without a written designation.

(b) **Application forms.** ~~A signed application is required to determine initial eligibility for benefits. The client completes~~ Application forms used include:

(1) Form ~~FSS-1~~ 08MP001E, ~~Comprehensive Application and Review~~ Request for Benefits, Form 08MP002E, Eligibility Information for Benefits, and Form 08MP003E, Responsibilities and Signature for Benefits, to apply for:

(A) food benefits;

(B) State Supplemental Payment (SSP);

(C) Supplemental Security Income-Disabled Children's Program (SSI-DCP);

(D) ~~Temporary Assistance for Needy Families (~~TANF~~)~~; ~~or~~

(E) SoonerCare (Medicaid) benefits. Form SC-1, SoonerCare Health Benefits Application, may be used instead for pregnant women and families with children; or

(F) child care benefits; or

(2) ~~Form FSS-1 or K-2, Application for Child Care Services, to apply for child care benefits.~~ Computer-generated Form 08LH001E, Application for Low Income Home Energy Assistance (Heating), or Form 08LH002E, Application for Low Income Home Energy Assistance - Walk-In, to apply for Low Income Home Energy Assistance Program (LIHEAP).

(c) ~~**Signatures**~~ **Signature requirements.** The ~~client~~ applicant, guardian, or someone acting on the ~~client's~~ applicant's behalf such as an authorized representative or ~~someone~~ a person with power-of-attorney must sign ~~Form FSS-1 or K-2~~ the application form. ~~For~~ TANF applications~~, if a client~~ must be signed by the applicant. ~~and~~ If the applicant is living with his or her spouse ~~are living together~~, both must sign the application form. The ~~client~~ applicant may voluntarily withdraw the request for ~~assistance~~ benefits or services either before or after signing the application form. ~~A client~~ An applicant who is:

(1) eligible for Medicare signs the application using the name on his or her Medicare Health Insurance Benefits (HIB) card; or

(2) not eligible for Medicare signs the application using the name shown on his or her Social Security card.

(d) **Interview requirements.** Whether an interview is required varies depending on the program.

(1) Prior to approval for benefits, the applicant must complete a face-to-face interview for the:

(A) Food Stamp Program. Exceptions are found at OAC 340:50-3-2(b); or

(B) TANF Program.

(2) A telephone or face-to-face interview is required for the:

(A) Child Care Program;

(B) SSP Program;

(C) SoonerCare (Medicaid) long-term care programs such as Advantage Waiver, nursing home care, or personal care; or

(D) SoonerCare (Medicaid) programs that categorically relate to the aged, blind, and disabled population such as Qualified Medicare Beneficiary (QMB), Specified Low-Income Medicare Beneficiary (SLMB), Qualified Disabled and Working Individuals (QDWI), or Qualified Medicare Beneficiary Plus (QMBP).

(3) An interview is not required prior to approval for SoonerCare (Medicaid) for pregnant women and families with children or LIHEAP benefits.

(~~d~~e) **Worker responsibilities.** The worker is responsible for:

(1) advising the ~~client~~ applicant during the application process of the:

(A) ~~of the~~ Oklahoma Department of Human Services (OKDHS) responsibility for reaching a decision and notifying the ~~client~~ applicant of eligibility or ineligibility within the appropriate time limits;

(B) ~~of his or her~~ applicant's right to request a fair hearing per OAC 340:2-5, either orally or in writing, and be represented at the hearing by any person the ~~client~~ applicant chooses ~~if~~. A hearing may be requested when there is a:

(i) delay beyond the established time limits for determining eligibility per OAC 340:65-3-5; or

(ii) disagreement with any action taken on the case;

(C) ~~of his or her~~ applicant's legal responsibility for reporting all facts pertinent to eligibility;

(D) ~~of the~~ types of changes the ~~client~~ applicant must report within ten calendar days;

(E) ~~of the~~ penalty for failure to report changes;

(F) ~~of~~ information needed to establish eligibility. When requesting information or verification from the ~~client~~ applicant, the worker uses Form ~~ADM-92~~ 08AD092E, ~~County~~ Client Contact and Information Request, and gives the ~~client~~ applicant at least ten calendar days to respond to the request~~; [~~per OAC 340:65-3-2.1~~]~~;

(G) ~~of the~~ assistance provided by OKDHS ~~can give~~ in establishing eligibility;

(H) ~~that by signing the application he or she is giving~~ permission the applicant gives OKDHS ~~permission~~ to obtain information from sources other than the ~~client~~ applicant by signing the application; and

(I) requirement that ~~he or she~~ the applicant must cooperate with state and federal officials if ~~his or her~~

the applicant's case is selected for a Quality Control review;

(2) collecting information necessary for determining the ~~client's~~ applicant's initial and continuing eligibility. Information considered verified upon receipt if that information is not questionable or inconsistent with known facts, and the provider of the information is the primary source of the information, is the:

(A) ~~client's~~ applicant's statement concerning:

(i) residency;

(ii) relationship;

(iii) age;

(iv) living in the home of a relative payee;

(v) minor parent living in the home of a relative;

(vi) Social Security number (SSN);

~~(vii) citizenship;~~

(~~viii~~vii) non-liquid resources;

(~~ix~~viii) household members;

(~~x~~ix) school attendance; and

(~~xi~~x) third party insurance;

(B) unearned income information obtained through:

(i) Beneficiary and Earnings Data Exchange System (BENDEX), from the Social Security Administration (SSA);

(ii) Supplemental Security Income (SSI)/State Data Exchange System (SDX), from SSA;

(iii) Unemployment Insurance Benefits (UIB), from the Oklahoma Employment Security Commission (OESC);

(iv) workers' compensation documents from Workers' Compensation Court; and

(~~v~~C) alien status information obtained through Systematic Alien Verification for Entitlements (SAVE), from the United States Citizenship and Immigration Services (USCIS);

(3) contacting other persons who may be able to help in establishing eligibility if the ~~client~~ applicant is unable to participate in the eligibility determination because of physical or mental disability, inability to speak English, or other difficulties;

(4) recognizing expressed or implied needs;

(5) determining whether there is a need for crisis intervention;

(6) making appropriate referrals;

(7) ensuring all of the ~~client's~~ applicant's social services needs are addressed and met; and

(8) denying the application if sufficient facts are available to substantiate ineligibility.

(~~e~~f) **Requirement for SSN.** A verifiable SSN or application for a SSN is required for every person whose needs are included for food ~~stamp~~ benefits, SSP, SSI-DCP, or TANF benefits. The requirement for a verifiable SSN also applies to all persons whose needs are included for SoonerCare (Medicaid) benefits, except newborn children deemed eligible and aliens who are residing in the United States (U.S.) unlawfully.

(1) The worker accepts the ~~client's~~ applicant's statement to document the SSN unless the information is inconsistent or there are other facts or observations which cause the worker to question the statement.

(A) Persons for whom a SSN is required but not available must be referred to the appropriate SSA office for SSN enumeration.

(i) The worker uses Form ~~ADM-101~~ 08AD101E, SSN Enumeration Referral, ~~is used~~ to refer persons to the SSA office for a SSN application.

(ii) The return of Form ~~ADM-101~~ 08AD101E to the human services center (HSC) validates the application(s) or indicates which persons have not provided ~~to~~ SSA appropriate original evidence of age, identity, and citizenship.

(B) Parents of newborns who participate in Enumeration at Birth (EAB) receive from hospital personnel Form SSA-2853-OP3, Message From Social Security. This receipt form is verification the newborn was enumerated at birth.

(2) ~~An~~ The worker denies the application ~~for assistance is denied~~ or does not include the ~~person's needs are not included~~ person for benefits if the person fails or refuses to furnish or to apply for a SSN.

(A) For TANF purposes, the person's needs are included; however, a 25% payment standard reduction penalty is imposed until an application for or a SSN is provided.

(B) For food benefit and SoonerCare (Medicaid) purposes, only the needs of the person for whom a SSN is not provided or applied for are not included.

(g) **Citizenship requirement.** All persons who are applying for state or federal public benefits such as child care, food benefits, LIHEAP, SoonerCare (Medicaid), SSP, or TANF must declare whether they are residing in the U.S. lawfully. Initially, the applicant must declare the citizenship or alien status for each household member applying for such benefits on the application form. Citizenship and alien status for persons applying for SoonerCare (Medicaid) benefits is determined using specific program requirements found at OAC 317:35-5-25. The following citizenship requirements are pursuant to Section 71 of Title 56 and Section 20j of Title 74 of the Oklahoma Statutes. Form 08MP022E, Declaration of Citizenship Status, is completed to declare the citizenship or alien status of additional household members who request benefits after certification. The application form and Form 08MP022E contain a statement advising the applicant that fraudulent claims of citizenship or lawful alien status are reported to the U.S. Attorney and may be subject to criminal prosecution.

(1) When the applicant declares that some or all of the household members applying for benefits are aliens, the worker must follow the SAVE procedures described at OAC 340:65-3-4 to determine if the documents provided to verify legal alien status are valid.

(2) The worker also must follow specific program policy regarding citizenship and alien status requirements to determine benefit eligibility found at:

(A) OAC 340:40-7-5 and OAC 340:10-15-1 for child care;
(B) OAC 340:50-5-67 for food benefits;
(C) OAC 340:20-1-8, OAC 340:20-1-10, and OAC 340:50-5-67 for LIHEAP;
(D) OAC 317:35-5-25 for SSP; and
(E) OAC 340:10-15-1 for TANF.

(3) Lawful status in the U.S. is considered verified if each person applying for benefits has furnished a SSN or Form 08AD101E from SSA indicating that the person has completed the application to apply for a SSN. OKDHS then through an automated data exchange transaction attempts to match SSN data exchange information with SSA.

(4) When OKDHS is unable to match the SSN with SSA for a person 14 years of age or older who is applying for benefits, that person must sign and have notarized Form 08MP005E, Citizenship Affidavit, attesting to his or her U.S. citizenship or alien status unless lawful status has been verified by a U.S. birth certificate, U.S. passport, or a Certificate of Naturalization.

(5) When the person fails or refuses to sign and have notarized Form 08MP005E, benefits are denied or closed for that person.

(6) When the worker finds that a person who signed Form 08MP005E attesting to U.S. citizenship or legal alien status made a false claim:

(A) the worker sends to Family Support Services Division (FSSD) any applicable evidence and a memo that includes:

(i) the benefits the person fraudulently applied for or obtained;
(ii) the time frame benefits were received; and
(iii) how the worker knows the claim was false;

(B) staff in FSSD in consultation with staff from the Legal Division review the memo and any evidence provided by the worker; and

(C) when FSSD and Legal Division staff determine the person made a false claim, a complaint is filed with the U.S. Attorney for the applicable district based upon the venue in which the affidavit was executed.

340:65-3-6. ~~Direct deposit~~ Payment method for TANF and SSP benefits

(a) ~~A client may elect to have his or her~~ When an applicant applies for Temporary Assistance for Needy Families (TANF) ~~benefit~~ or State Supplemental Payment ~~(~~SSP~~)~~ ~~deposited directly into his or her checking or savings account~~ benefits, the worker advises the applicant that these benefits are first issued on a debit card. ~~The account used for direct deposit must have the payee's name on the account. Direct deposit applies only to regular roll. Supplemental, retroactive, and daily TANF and SSP benefits are not issued through direct deposit.~~

(1) When a debit card has not previously been issued to the applicant, it is issued when benefits are placed in application status or after benefits are approved. When a debit card has previously been issued to the applicant, a new one is not sent. It is activated once benefits are approved.

(2) Once the client receives the debit card, he or she must call the customer service telephone number located on the back of the debit card to activate the card and choose a personal identification number (PIN).

(3) The client may choose another person to be a secondary cardholder for the benefits. The client must either contact the customer service telephone number located on the back of the debit card to request this or print the alternate cardholder request form from the www.eppicard.com Web site. The client and the secondary cardholder must complete and sign the form and return it to the address on the form before a debit card is issued to the secondary cardholder. After the secondary cardholder receives the debit card, he or she must choose a PIN number before accessing benefits.

(4) When the client advises the Oklahoma Department of Human Services (OKDHS) staff that he or she never received the debit card, the worker checks to see if was returned as undeliverable.

(5) There are certain fees a client may be charged when using a debit card. A list of fees can be found at www.eppicard.com. The client is sent information about fees when a debit card is first issued. The client can access account and transaction information on-line at www.eppicard.com free of charge at any time.

(6) If the client fails to activate his or her debit card within 90 calendar days, the contractor returns any funds loaded on a debit card to OKDHS.

(b) When the client prefers to receive benefits through direct deposit, he or she must call the contractor's call center telephone number to request direct deposit. The contractor's staff mails or faxes a direct deposit form to the client to complete and return before benefits can be issued by direct deposit. The client can also obtain a direct deposit form by going to the www.eppicard.com Web site and printing it off.

(1) ~~Upon request by the~~ The client ~~for direct deposit, the social services specialist provides Form ADM 110, Direct Deposit Enrollment Form, to the client for completion. The bank or savings account number provided on the form must be verified by using~~ must complete the direct deposit form, provide a voided check or ~~through confirmation from the banking institution~~ a savings account deposit slip, and return them to the address on the form. ~~Deposit slips may not be used for account number verification because they often include internal bank routing codes unnecessary for direct deposit.~~

(2) ~~As soon as the bank account number is verified, the direct deposit information is referred for supervisor approval. The transaction BANK is used to process the approval. After direct deposit information is entered in the computer, Data Services Division and the fiscal agent do an electronic account confirmation which is a 14-21 day process. Once electronic confirmation of the account occurs, direct deposit begins the next effective date.~~ Once the form is completed and account information confirmed,

the contractor has five working days to enter direct deposit information in the system.

(3) Benefits are changed to direct deposit for the next payment due after direct deposit information is entered in the system.

(4) Funds cannot be transferred from a debit card to direct deposit.

(~~3~~c) The client's cash ~~assistance~~ benefit is deposited in the client's checking or savings account on the first banking day of each month or loaded on the client's debit card on the first day of each month.

(1) The funds are available for withdrawal ~~the first banking day of each month~~ after deposit. ~~A notice is issued advising the client of the amount deposited, the bank where the deposit was made, and the date funds are available.~~

(~~4~~2) After the monthly benefit is deposited in the ~~payee's~~ client's account or loaded on the debit card, ~~the Agency~~ OKDHS is not responsible if someone other than the payee withdraws the funds. Banking regulations govern withdrawals.

(3) Clients are encouraged to be prudent about giving withdrawal privileges or debit card access to other people.

(~~5~~d) ~~A~~ The client may ~~withdraw from the~~ switch from direct deposit ~~procedure~~ to the debit card or from the debit card to direct deposit by ~~completing and signing ADM 110 authorizing cancellation~~ calling the contractor's call center to request the change and following directions given by the contractor's staff. ~~The cancellation is referred for supervisor approval and for updating the BANK transaction.~~

(~~b~~e) ~~In rare instances, unexpected developments~~ When problems occur with direct deposit or debit card deposits,~~.~~ ~~Procedures~~ procedures for dealing with these ~~developments~~ problems are detailed in (1)-(~~6~~5) of this subsection.

(1) ~~**Returned item.**~~ When direct deposit cannot be accomplished for a ~~monthly~~ benefit, ~~the county office is notified through its electronic mailbox. A warrant is automatically generated and mailed to the client's address. When an item is returned, direct deposit is suspended by the State Office. No further direct deposits are made until the county office reinitiates direct deposit by updating the direct deposit file~~ the contractor's staff attempts to contact the client to obtain current banking information. When the client fails to provide current information or five days elapse without contact, the contractor converts the payment method to a debit card. If the client wishes to receive direct deposit again, the client must complete a new direct deposit form and provide current account information.

(2) ~~**Deposit not made.**~~ If a client reports that a deposit was not made to his or her account or loaded on the debit card, ~~the Office of Finance is notified immediately~~ the client reports this to the contractor's call center. ~~The Office of Finance investigates what happened to the direct deposit. When it is verified by the Office of Finance that direct deposit did not occur, a warrant is issued and mailed to the payee. If the Office of Finance verifies that direct deposit did occur properly, the county office is notified.~~ The contractor handles any communication with banking institutions or MasterCard and then contacts the client regarding resolution.

(3) ~~**Direct deposits made after payee's death.**~~ Payments may be made by direct deposit or debit card after the death of the payee. When a ~~direct deposit~~ payment is made after the death of the payee for which the payee is not eligible, ~~the Office of Finance attempts to retrieve the overpaid funds from the payee's bank account. If the funds have already been removed and cannot be retrieved, the county office is notified to establish~~ an overpayment may be established against the estate.

(4) ~~**Case closure.**~~ When a ~~case~~ cash benefit is closed, the ~~case~~ closure ~~update~~ action automatically closes out direct deposit or debit card payments. ~~If the client later reapplies and wants direct deposit, another enrollment form must be completed and processed.~~

(A) ~~If a case~~ When the client's cash benefit is closed due to transfer of eligibility to another TANF or SSP case, direct deposit or debit card deposit is automatically transferred to the new case provided the ~~Social Security number (SSN)~~ client number of the payee in the closed and new case is the same.

(B) When the client's cash benefit is closed and he or she later reapplies and is approved with the same client number, the previously chosen payment method is used to issue the cash benefit. The client must call the contractor's call center to change the payment method.

(5) ~~**Payee change.**~~ ~~Direct deposit uses the payee's SSN.~~ When the payee for the cash benefit changes for any reason, ~~direct deposit automatically ends for the case unless it is reestablished under the new or corrected SSN~~ he or she is assigned a new client number and a debit card is issued if one has not previously been issued for the new client number. The client must call the contractor's call center to set up direct deposit if he or she prefers that payment method. The new payee does not have access to benefits issued prior to the payee change.

340:65-3-6.1. Electronic Benefits Transfer ~~(EBT)~~

Food ~~stamp, Temporary Assistance for Needy Families (TANF),~~ and child care benefits are delivered by a statewide Electronic Benefits Transfer (EBT) system.

340:65-3-8. Determination of continuing eligibility

(a) **Determination of continuing eligibility.** ~~Eligibility determination~~ Determining continuing eligibility is a ~~continuing~~ process which must be carried out at appropriate intervals. The appropriate interval for reviewing eligibility depends on the ~~type(s)~~ type of ~~benefit(s)~~ benefit received. ~~An eligibility review may be scheduled to synchronize with other benefit reviews.~~ The worker is responsible for:

(1) advising the recipient at each contact of the recipient's responsibility to report changes within ten calendar days of the date the change becomes known;

(2) making contacts at unspecified intervals to ensure continuing eligibility;

(3) synchronizing the review dates for all benefits received by the household whenever possible; and

(~~3~~4) determining continuing eligibility.

(b) **Eligibility review or recertification forms.** Form 08MP001E, Request for Benefits, Form 08MP002E, Eligibility Information for Benefits, and Form 08MP003E, Responsibilities and Signature for Benefits, are used as the review or recertification forms for food benefits, subsidized child care benefits, Temporary Assistance for Needy Families (TANF), State Supplemental Payment (SSP), or SoonerCare (Medicaid) benefits. Other forms that may be used include:

(1) computer-generated Form 08MA007E, Recertification of Eligibility for SoonerCare Health Benefits, for pregnant women and families with children approved for SoonerCare (Medicaid) benefits;

(2) computer-generated Form 08MP004E, Benefit Review Report, for persons subject to benefit review. These may include recipients of food, child care, or SoonerCare (Medicaid) benefits; or

(3) Form 08MA017E, SSI-DCP Service Plan, for children receiving Supplemental Security Income-Disabled Children's Program (SSI-DCP) services per OAC 340:70-8-1.

(c) **Signature requirements.** The review or recertification form must be signed by the recipient, guardian, or a person acting on the recipient's behalf, such as an authorized representative or a person with power-of-attorney. TANF reviews must be signed by the recipient. If the recipient is living with his or her spouse, both must sign the review form. The only exception to the signature requirement is for a SoonerCare (Medicaid) review completed over the telephone using Form 08MA007E or Form 08MP004E.

(~~A~~ d) **Review or recertification time frames.** A periodic review ~~of eligibility is completed at 12 month intervals for:~~ or recertification time frame varies depending on the program.

(1) The worker completes a review at six month intervals with a:

(~~i~~A) ~~a Temporary Assistance for Needy Families (~~TANF~~)~~ recipient ~~except when six month intervals are required~~ due to:

~~(I) protective payments;~~

(~~II~~i) pending required immunizations;

(~~III~~ii) payment standard reductions ~~due to~~ because of intentional program violations;

(~~IV~~iii) hardship extension approvals;

(~~V~~v) earned income;

(~~VI~~v) a work-eligible ~~individual~~ person exempt from TANF Work activities ~~due to~~ because of incapacity; or

(~~VII~~vi) a work-eligible ~~individual~~ person exempt from TANF Work activities ~~due to caring~~ to care for ~~an~~ a disabled family member living in the household;

(B) child care recipient who is receiving child care benefits because of a protective or preventive reason per OAC 340:40-7-8; or

(C) food benefit recipient subject to semi-annual benefit reporting per OAC 340:50-9-5(i).

(2) The worker completes a review or recertification at 12-month intervals with a:

(A) TANF recipient unless an earlier review date is warranted;

(~~ii~~B) ~~a~~ State Supplemental Payment (SSP) recipient based on the review of need for ~~Health Benefits~~ SoonerCare (Medicaid);

(~~iii~~C) ~~a~~ child receiving SoonerCare (Medicaid) who is in state or tribal custody;

(~~iv~~D) child care ~~benefits except when:~~

~~(I) there is an expected or reported change in the days and hours child care is needed;~~

~~(II) there is an anticipated change in income; or~~

~~(III) protective or preventive child care is approved~~ recipient unless an earlier review date is warranted per OAC 340:40-9-1;

(~~v~~E) ~~a~~ non-public assistance (non-PA) food benefit household~~, unless the household contains an able-bodied adult without dependents who is not meeting work requirements or is not otherwise exempt, or all adult household members are elderly or disabled with no earned income~~ who is subject to semi-annual benefit reporting per OAC 340:50-9-5(i) must complete a recertification form. ~~A benefit review is completed at six month intervals by sending Form 08MP004E, Benefit Review Report, to the household in the fifth~~ Non-PA food benefit recipients subject to annual benefit reporting must complete Form 08MP004E in the 11th month of certification; ~~and~~ or

(~~vi~~F) ~~Health Benefits recipients except those who are~~ SoonerCare (Medicaid) recipient unless benefits are approved for less than 12 months. ~~A benefit review is completed at 12 month intervals by sending Form 08MP004E, to the recipient in the 11th month of certification.~~

(~~B~~3) ~~A periodic review of eligibility is completed~~ The worker completes a food benefit recertification form at 24-month intervals for a non-PA food benefit household ~~with all adult members elderly or disabled with no earned income~~ who is subject to annual benefit reporting per OAC 340:50-9-5(g). ~~A benefit review is completed at 12 month intervals by sending Form 08MP004E to the household in the 11th month of certification.~~

(e) **Interview requirements.** Whether an interview is required varies depending on the program.

(1) A face-to-face interview is required for the:

(A) Food Stamp Program at recertification. Exceptions are found at OAC40:50-3-2(b);

(B) TANF Program; or

(C) SSI-DCP service plan review.

(2) A telephone or face-to-face interview is required for the Child Care Program review.

(3) An interview is not required for any of the SoonerCare (Medicaid) programs as long as the review form is complete, including the signature, all required verification provided, and none of the information is questionable.

When information is not complete or is questionable, the worker contacts the recipient to obtain needed information.

SUBCHAPTER 5. PROCEDURES RELATING TO CASE CHANGES

PART 3. PROCEDURES FOR HANDLING WARRANTS IN SPECIAL CIRCUMSTANCES

340:65-5-15. Non-receipt of benefits issued by warrant

(a) A client or vendor who reports benefit from a warrant has not been received due to loss, theft, mutilation, or non-receipt is required ~~by Section 34 of Title 74 of the Oklahoma Statutes, 1996,~~ to complete Form ~~ADM-44~~ 10AD044E, Affidavit of Lost or Destroyed Warrant, or the Office of State Finance's (OSF) Form 20R, Warrant Replacement Request, before a replacement warrant may be issued per Section 34 of Title 74 of the Oklahoma Statutes. Original signatures must be on all copies of the form.

(b) ~~The only circumstances in which completion~~ Completion of Form ~~ADM-44~~ 10AD044E or OSF Form 20R is not required ~~are outlined in paragraphs (1) (2) of this subsection.~~ when:

(1) ~~A~~ a sufficient portion of a burned or mutilated warrant remains intact so the warrant can be positively identified ~~and~~ to ensure the client could not have redeemed the missing portion~~.~~; or

(2) ~~If~~ the original warrant is being retained by a law enforcement agency~~,~~. ~~that~~ That agency must:

(A) submit a letter on its letterhead to the ~~Office of~~ Oklahoma Department of Human Services (OKDHS) Finance Division stating the warrant is being held as evidence and will not be given to the payee under any circumstance, but will be returned to the ~~Office of~~ OKDHS Finance Division for disposition at the conclusion of their investigation~~.~~; and

(B) ~~A~~ attach a copy of the warrant, front and back~~, must be included with the letter and the letter must be written on that agency's letterhead~~.

(c) The client is advised to not cash the original warrant without first notifying his or her ~~social services specialist should~~ worker if it ~~be~~ is located after Form ~~ADM-44~~ 10AD044E or Form OSF 20R has been signed. Any attempt to cash the warrant will result in the State Treasurer returning the unpaid warrant to the second endorser~~, who~~. The second endorser has recourse against the client to repay the amount of the warrant, plus any returned check charges ~~imposed by the second endorser~~.

(d) If the payee is a company rather than an individual, ~~an employee~~ a duly authorized agent of the company must sign Form 10AD044E or Form OSF 20R on behalf of the payee giving the title of the position he or she holds with the company. ~~Original signatures must be on all copies of the form. Form ADM-44 is prepared using the amount of the warrant.~~

(e) ~~If the warrant is outstanding, the client or payee may sign a notarized statement requesting payment on the warrant be stopped, and a replacement issued once it is confirmed the warrant is canceled by statute of limitation. When the client signs using an X, his or her mark must be witnessed by two persons giving their complete names and addresses beside each place the client used a mark.~~

~~(f)~~ Upon receipt of Form ~~ADM-44~~ 10AD044E or Form OSF 20R, ~~the Office of~~ OKDHS Finance Division staff determines if the warrant has been cashed or if it remains outstanding. If the warrant has not been cashed, ~~the Office of~~ OKDHS Finance Division staff sends a stop payment order to the State Treasurer. Upon receipt of confirmation from the State Treasurer, ~~the Office of~~ either the OKDHS Finance Division staff or OSF staff issues a replacement warrant.

(~~g~~f) If the warrant has been cashed, ~~the Office of~~ OKDHS Finance Division staff obtains a copy of the paid warrant and sends it to the ~~county office~~ human services center (HSC) for signature comparison~~.~~ with ~~An~~ Form 10AD045E, Affidavit of ~~Forgery~~ Forged Endorsement and ~~Postal Inquiry Form for the U.S. Postal Inspection Service is also sent~~ Form 10AD046E, Investigation Questionnaire. The worker instructs the client or payee ~~is instructed~~ to examine the endorsement carefully and ~~is warned~~ warns him or her of the seriousness of making true and accurate statements concerning whether:

(1) the endorsement is forged~~,~~;

(2) ~~if~~ he or she gave someone permission to cash the warrant~~,~~; and

(3) ~~if they~~ he or she received benefit from the warrant ~~whether they endorsed and cashed it~~. [21 O.S. § 358]

(~~h~~g) The worker sends the completed ~~Affidavit of Forgery and Postal Inquiry~~ Form ~~are sent~~ 10AD045E and Form 10AD046E to the ~~Office of~~ OKDHS Finance Division for processing.

(1) When the ~~Office of~~ OKDHS Finance Division receives the required documents, the forged warrant is returned through banking channels to the second endorser for collection. A replacement warrant is not issued until reimbursement is received from the second endorser.

(2) The second endorser has the right to protest a claim if ~~they have~~ there is evidence to show it is fraudulent. If the ~~claim is protested, the~~ second endorser chooses to protest the claim, he or she must file a complaint with the local police department and send a copy of the complaint report and a letter to the ~~Office of~~ Finance Division.

(3) When the State Treasurer receives reimbursement from the second endorser, Form ~~ADM-44~~ 10AD044E or Form OSF 20R is approved and sent to the ~~Office of~~ OKDHS Finance Division. ~~A replacement warrant is not issued until reimbursement is received from the second endorser.~~ If the second endorser does not protest the claim within two months, either the OKDHS Finance Division or OSF staff issues a replacement warrant to the client or vendor.

340:65-5-16. Warrant issued after recipient's death

When a warrant for which the estate is not eligible is ~~issued,~~ cashed~~,~~ and paid by the State Treasurer, the ~~Office of~~

Finance Division requests the State Treasurer return the warrant to the second endorser for collection on the grounds that it does not bear the endorsement of the true payee. Attached to the warrant is a notarized statement signed by a designated employee in the ~~Office of~~ Finance Division, certifying the date of death on file with the Oklahoma Department of Human Services. When the State Treasurer receives reimbursement, the State Fund is credited and the ~~Office of~~ Finance Division is notified of its receipt. When the ~~county office~~ local human services center is notified of a client's death, the family is advised to return for cancellation any warrants for which the estate is not eligible.

340:65-5-17. Warrant cashed in error

When a warrant is inadvertently cashed by the wrong client, due to Oklahoma Department of Human Services error because the names are similar or for other reasons~~, a warrant is inadvertently cashed by the wrong client~~, the ~~county office~~ human services center (HSC) staff immediately substantiates facts related to the error and sends a report of these facts to the Family Support Services Division (FSSD).

(1) If the client who cashed the warrant is not convinced of the error, a request is made by the ~~county office~~ HSC staff to the ~~Office of~~ Finance Division for a photostatic copy of the warrant in order that facts in evidence may be discussed with the client.

(2) ~~An~~ The worker submits an overpayment ~~referral is submitted~~ for the client who inadvertently cashed the wrong warrant to the FSSD Benefit Integrity and Recovery Section in accordance with OAC 340:65-9.

340:65-5-18. Warrant returned as undeliverable

~~Warrants which the~~ The postal service ~~cannot deliver are returned~~ returns to the ~~State Office~~ Oklahoma Department of Human Services (OKDHS) Finance Division any undeliverable warrants in accordance with the return address printed on the envelope. ~~If an undeliverable warrant is returned in error to the county office, it is sent immediately to the Office of Finance on Form F-16, Authorization for Issuance and Disposition. The Office of Finance notifies the county offices daily of any returned warrants and the reason for their return. If the client cannot be located or for some reason the county office is unable to authorize disposition of the warrant by deadline, payment is suspended. If a non-delivered State Supplemental Payment (SSP) warrant is held by the Office of Finance, a warrant is not mailed to the client until the case is removed from suspended status.~~

340:65-5-19. Warrants canceled by statute of limitation

Any ~~State~~ warrant not presented for payment within 90 days of issuance is automatically canceled by statute of limitation. Section 41.19 of Title 62~~,~~ of the Oklahoma Statutes~~,~~ restricts reissuance of any public or medical assistance warrant to within ~~three years~~ 36 months following the month of its cancellation. This restriction does not apply to warrants issued prior to February 1, 1992. The holder of such a canceled warrant may, within the ~~three year~~ 36 month period, submit the original warrant to the Oklahoma Department of Human Services (OKDHS) with a request for its reissuance.

(1) If the original warrant is not in ~~his or her~~ the person's possession, Form ~~ADM-44~~ 10AD044E, Affidavit of Lost or Destroyed Warrant, may be submitted in lieu of the actual warrant.

(2) If the holder of the canceled warrant is a corporation, ~~it is acceptable for the affidavit of loss or destruction to be submitted on their letterhead providing the request contains the warrant number, issue date, net amount and a brief description of the circumstances surrounding the warrant's loss or destruction. The request must also bear the notarized signature of their~~ a duly authorized agent ~~and~~ of the corporation completes and signs Form 10AD044E or the Office of State Finance Form 20R, Warrant Replacement Request. The duly authorized agent must state on the form the title of the position he or she holds with the company.

(3) Requests for reissuance must be ~~forwarded~~ mailed to the ~~DHS Office of~~ Finance Division, P.O. Box 53308, Oklahoma City, OK 73152, where replacement warrants are processed monthly.

340:65-5-20. Payment to estate of deceased recipient ~~other than Temporary Assistance for Needy Families (TANF) payee~~

(a) ~~The Oklahoma Social Security Act, Title 56, Oklahoma Statutes~~ Sections 190 and 191 of Title 56 of the Oklahoma Statutes (56 O.S. §§ 190 and 191) provides for payments to the estate of a deceased ~~recipient other than TANF~~ client. If the client dies before the warrant is endorsed or presented for payment, ~~an endorsement may be made by the District Court~~ the next of kin, next friend, or other reputable person must obtain a court order from the district court authorizing and directing such person to endorse the warrant before it can be cashed. ~~The fact of the death and the date on which it occurred must be exactly determined in order to establish eligibility for this payment since the warrant may be cashed only if the client was alive on the first day of the month for which the warrant was issued. The first day of the month is considered to begin at 12:00 midnight.~~ No costs may be charged for court proceedings.

(1) The next of kin, ~~or~~ next friend, or other reputable person requesting an endorsement of the warrant(s) due the deceased recipient ~~files Form FSS-ABD-23, Notice to County Judge Regarding Deceased Recipient, with the District Court giving the name of the recipient, the date of death, and the amount and number of each assistance payment involved~~ may file an affidavit directly with the district court stating the name of the recipient, the date of his or her death, and the amount and number of warrants. The next of kin, next friend, or other reputable person may or may not have possession of the warrant(s).

(2) The next of kin, next friend, or other reputable person may also present unendorsed warrants to the local human services center (HSC) and request assistance in cashing them.

(A) The county director prepares Form 08MP023E, Notice to County Judge Regarding Deceased Recipient, and sends the original to the district judge and a copy to the Finance Division.

(B) Prior to completing this form, HSC staff must confirm the date of death of the recipient in order to establish eligibility for this payment. The warrant may be cashed only if the recipient was alive on the first day of the month for which the warrant was issued.

(C) The first day of the month is considered to begin at 12:00 midnight.

(b) The district judge or his or her associate is responsible for determining whether ~~the endorsement procedure is applicable in view of~~ to issue a court order based on the information presented. If ~~it is~~ applicable, a court order is made authorizing and directing ~~one of~~ the next of kin, ~~or~~ next friend, or other reputable person to endorse the warrant and cash it without the signature of an administrator. The order covers all points set out as requirements in the law.

(c) ~~The~~ In lieu of a court order, the district judge or his or her associate ~~issues the authorization for endorsement in the form of a court order, or he or she makes~~ may make a notation directly on the warrant itself, specifying the name of the person authorized to endorse it. ~~No costs may be charged in these proceedings.~~

(d) ~~The~~ When the unendorsed warrant is returned to the Finance Division, it is only sent to the next ~~friend or next~~ of kin, next friend, or other reputable person after Finance staff receives ~~sends~~ the original of the court order with ~~his or her~~ that person's address ~~to the State Office, Attention Office of Finance, and retains the duplicate for his or her use when cashing the warrant~~ included. Upon receipt of the judge's order and determination that its issuance conforms to the facts and the law, ~~the Office of~~ Finance Division staff mails the warrant directly to the person authorized to endorse it. ~~Any~~ The Director of the Oklahoma Department of Human Services handles any question regarding a refusal to release the warrant ~~is handled by the Director of DHS~~.

~~(2) When an unendorsed warrant to a deceased client is returned to the State Office undelivered, it is remailed only when the DHS Office of Finance determines the law has been complied with and the necessary authorizations, as evidenced by the court order and Form FSS-ABD-23, are received in the Office of Finance. Notification is made available by e-mail to the county office advising them of the returned warrant so the court order and Form FSS-ABD-23 can be prepared.~~

~~(3) Form FSS-ABD-23 is used by the county office in determining the right to obtain a special endorsement on an assistance warrant. The law does not require the District Court to secure this information from the county office before providing for a special endorsement, but the Department is obligated to withhold payment on the warrant if it has reason to believe the law has not been complied with as to the client being alive in the month for which the warrant was issued.~~

340:65-5-21. Payment for Temporary Assistance for Needy Families (TANF) when the payee is no longer available to endorse the warrant [REVOKED]

~~If a TANF payee is not available to access the benefit due to death, institutionalization, or any similar circumstances, a new payee can be selected. [OAC 340:65-3-6.1]~~

PART 7. GUARDIANSHIPS, ~~AND~~ CONSERVATORSHIPS, AND SUBSTITUTE PAYEES

340:65-5-66. Substitute payee for the TANF Program

When the head of the household is a minor, the Temporary Assistance for Needy Families (TANF) benefit may be issued to a substitute payee rather than the minor.

PART 9. PROTECTIVE PAYMENTS IN TANF [REVOKED]

340:65-5-80. Purpose and conditions [REVOKED]

~~A protective payment in Temporary Assistance for Needy Families (~~TANF~~) is the payment of the cash assistance, on a planned basis, to an individual other than the person who would normally be the payee. Protective payments are made for the purpose of protecting the best interest of the children who are included in a TANF benefit. Benefits are issued to protective or substitute payees when:~~

~~(1) there is evidence of mismanagement of the TANF payment; or~~

~~(2) the head of household is a minor under age 16.~~

340:65-5-81. Money mismanagement [REVOKED]

~~The case record must make clear there is specific evidence of mismanagement of funds. When there is money mismanagement, the social services specialist may determine there is a need for a protective payment. Protective payments may continue for no more than two years. The exception is when reasonable additional time as is necessary to complete other arrangements, such as appointing a legal guardian or arranging for foster care. The social services specialist determines when the situation has improved to the extent the payment can again be made to the relative payee or whether other arrangements for the care of the children are needed. Evidence of funds being mismanaged in a way that threatens the well-being of the children situations such as:~~

~~(1) continued inability to budget the cash assistance and any other income to meet necessary expenditures. Evidence of inability to properly budget includes, but is not limited to, expenditures for bail, criminal fines, alcohol, illegal drugs, and gambling;~~

~~(2) continued evidence that the children do not have adequate food and clothing and that failure to provide food and clothing threatens their healthy growth and development; and~~

~~(3) repeated obligations go unpaid, with referral to a collection agency or legal action to repossess items purchased.~~

340:65-5-85. Selection and responsibilities of the protective payee [REVOKED]

~~Persons who may act as a protective payee are friends or relatives of the client, ministers, or employees of or volunteer workers for public or voluntary social agencies or organizations such as Big Brothers, Inc., and similar groups. Employees of the Department and persons such as landlords, grocers, or other vendors of goods or services utilized by the Temporary Assistance for Needy Families (TANF) assistance unit cannot be protective payees without prior administrative approval from the State Office, Family Support Services Division (FSSD).~~

~~(1) The protective payee is an individual who is:~~

~~(A) interested in the welfare of the family;~~

~~(B) able to assist the family to make appropriate use of the TANF cash assistance;~~

~~(C) accessible to the family;~~

~~(D) able to establish and maintain a positive relationship with the family; and~~

~~(E) reliable and of good character.~~

~~(2) The protective payee is responsible for:~~

~~(A) ensuring the TANF cash assistance is expended for the benefit of the family;~~

~~(B) keeping written records of all expenditures of TANF cash assistance;~~

~~(C) producing those records at the request of the Department;~~

~~(D) assisting the caretaker relative to develop sufficient money management skills so he or she can resume management of the family income; and~~

~~(E) honoring the client's right to confidentiality.~~

340:65-5-87. Right to a fair hearing [REVOKED]

~~The recipient has the right to appeal the decision of the Agency to obtain a substitute payee and provide assistance in the form of a protective payment. Written notice of the right to appeal the decision is provided to the recipient at the time the determination is made and with each decision on the status of the protective payment following a periodic redetermination.~~

SUBCHAPTER 9. OVERPAYMENTS AND FRAUD IN TEMPORARY ASSISTANCE FOR NEEDY FAMILIES AND STATE SUPPLEMENTAL PAYMENT BENEFITS

340:65-9-1. Scope and applicability

An overissuance or overpayment occurs when a household receives more benefits than it is entitled to receive. ~~When the worker determines that an overissuance or overpayment may have occurred, the worker makes a referral to Family Support Services Division (FSSD) Overpayment Section for determination of an overpayment.~~ Overpayments may be classified as inadvertent client errors, agency error, willful misrepresentation, or intentional program violation (fraud).

(1) Instances which may result in referral for an overpayment determination include, but are not limited to:

(A) the household:

(i) failed to provide the Oklahoma Department of Human Services (OKDHS) with correct or complete information;

(ii) failed to report changes in its circumstances; or

(iii) elected to receive benefits pending a fair hearing decision, which subsequently found the family ineligible or eligible for fewer benefits; or

(B) the worker:

(i) failed to take prompt action on a change reported by the household;

(ii) incorrectly computed the household's income, deductions, or both; or

(iii) incorrectly authorized issuance of benefits to a household; or

(C) any overissuance discovered as a result of a Quality Control Review.

~~(3) The FSSD Overpayment Section classifies overpayments as inadvertent client error, agency error, willful misrepresentation, or intentional program violation (fraud).~~

(2) ~~The FSSD Overpayment Section classifies overpayments as inadvertent client error, agency error, willful misrepresentation, or intentional program violation (fraud).~~ When the worker determines that an overissuance or overpayment has occurred, he or she documents the circumstances leading to the overpayment and computes the amount of the overpayment. Overpayments may cover the entire time the overissuance occurred.

(3) When the worker suspects fraudulent intent but has insufficient information to complete an overpayment, he or she sends Form 19MP019E, Referral Form to the Office of the Inspector General (OIG). When OIG staff determines that an overpayment occurred, he or she documents and computes the overpayment amount.

(4) Once the overpayment has been completed and notices sent, the overpayment is considered to be established. The establishment of an overpayment is made by the worker's supervisor or staff in the Family Support Services Division (FSSD) Benefit Integrity and Recovery Section. Notices sent include:

~~(3) The FSSD Overpayment Section sends~~

(A) Form ~~ADM-S-20~~ 08AD012E, Notification of Overpayment, to the client~~.~~; and

(B) ~~The county office receives Forms ADM-S-8, Overpayment Report to the County, ADM-S-20,~~ Forms 08AD012E and ~~ABCD-50~~ 08OP025E, Chart of Temporary Assistance to Needy Families and State Supplemental Payment Overpayments, to the local HSC.

(~~4~~5) The FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section postpones notification to the client by

Form ~~ADM-S-20~~ 08AD012E on cases referred for a judicial court decision until a court decision has been made.

~~(5) Overpayments may cover the entire time the overissuance occurred. However, overpayments classified as fraud in a court of law cannot include periods more than five years prior to the date charges were filed.~~

~~(6) When the worker or the FSSD Overpayment Section suspects fraudulent intent, a referral is made to the Office of Inspector General (OIG) for a determination of fraud.~~

(~~7~~6) ~~The FSSD Overpayment Section~~ OIG staff may make a referral to the Legal Division~~,~~ Appeals Unit~~,~~ for an administrative disqualification hearing.

340:65-9-2. Overpayments by classification

(a) **Overpayments classified as inadvertent client error.** An overpayment is classified as an inadvertent client error if the overissuance ~~was~~ is caused by a misunderstanding or unintended error on the part of the household. Instances of inadvertent client error which may result in an overpayment include, but are not limited to, when the household unintentionally:

(1) ~~failed~~ fails to provide the Oklahoma Department of Human Services (OKDHS) with correct or complete information;

(2) ~~failed~~ fails to report changes in household circumstances; or

(3) ~~received~~ receives benefits or more benefits than it was entitled to receive pending a fair hearing decision.

(b) **Overpayments classified as agency error.** An overpayment is classified as an agency error if the overissuance ~~was~~ is caused by OKDHS action or failure to take action. Instances of agency error which may result in an overpayment include, but are not limited to, when OKDHS staff:

(1) ~~failed~~ fails to take prompt action on a change reported by the household;

(2) incorrectly ~~computed~~ computes the household's income or deductions, or otherwise ~~assigned~~ assigns an incorrect ~~allotment~~ benefit amount;

(3) incorrectly ~~issued~~ issues benefits to a household, including errors caused by overall updates; or

(4) incorrectly ~~applied~~ applies policy or procedures.

(c) **Overpayments classified as willful misrepresentation.** Overpayments classified as willful misrepresentation result from deliberate concealment of information which, had it been reported, would have initiated case closure or benefit reduction. ~~An assessment is made to determine whether the client has the capability of understanding his or her responsibilities and actions.~~ Willful misrepresentation may be oral or written and may include ~~understatements~~ under reporting of the amount of income or resources or other pertinent information. Debts classified as willful misrepresentation may change in the event they are referred for judicial prosecution or administrative disqualification hearing.

(1) When the ~~county~~ human services center (HSC) receives Form ~~Adm-S-8, Overpayment Report to the County~~ 08AD012E, Notification of Overpayment, on debts classified as willful misrepresentation, but not referred to the Office of Inspector General (OIG), the worker contacts the client and requests the client to voluntarily sign Form ~~ABCD-51~~ 08OP002E, Affidavit of Acknowledgment of Indebtedness. If the client refuses to sign Form ~~ABCD-51~~ 08OP002E, his or her eligibility is not affected.

(2) If the client voluntarily signs Form ~~ABCD-51~~ 08OP002E and owns real property other than the declared home property, the worker files the signed form with the county clerk of the county in which the real property is located. Filing Form ~~ABCD-51~~ 08OP002E with the county clerk places a lien on the real property.

(d) **Overpayments classified as intentional program violation (fraud).** An overpayment is classified as intentional program violation when it is determined that a client has intentionally given false information or withheld facts in order to receive benefits. This determination is made through an administrative disqualification hearing, signing Form ~~H-S-13-A~~ 08OP016E, Administrative Disqualification Hearing Waiver, or by judicial court decision.

340:65-9-3. Procedures for referring overpayments [REVOKED]

~~The worker makes referrals for determination of an overpayment if they believe a household received an overissuance of benefits. The worker makes the referral, regardless of whether suspected inadvertent client error, agency error, willful misrepresentation, or intentional program violation (fraud) caused the overissuance. The Family Support Services Division Overpayment Section sends the client ADM-S-20, Notification of Overpayment, and advises the client of the amount of overpayment, dates of the overpayment, and the reason the overpayment occurred.~~

340:65-9-4. Fraud

(a) The term fraud is defined as an intentional false representation of a truth or matter of fact, whether by words or conduct, false or misleading allegations, or concealment of that which should have been disclosed, for the purpose of inducing another to part with something valuable or surrender a legal right. The penalty for fraud is provided in the Oklahoma Social Security Act, Section 185 of Title 56 of the Oklahoma Statutes. Under the statutes, only courts can determine guilt and impose a legal penalty.

(b) ~~If the~~ The Family Support Services Division (FSSD) ~~suspects the client has committed fraud, FSSD~~ Benefit Integrity and Recovery Section staff refers ~~the overpayment~~ client error overpayments of $500 or more to the Office of Inspector General (OIG) ~~using Form OIG-1, Referral Form~~ for a determination of fraud and whether judicial court action is feasible.

(c) ~~If the county office suspects the case needs investigation, the county office makes~~ Workers make a referral directly to OIG using Form ~~OIG-1 for determination of fraud~~ 19MP001E, Referral Form, when there is not sufficient information to calculate an overpayment or it involves a state employee or his or her relatives. OIG staff submits their findings to FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section for final calculation and establishment of the overpayment.

(1) Overpayments classified as fraud are intentional program violations that have been referred for judicial prosecution or administrative disqualification hearing and, as a result, have been determined as fraudulent. Clients with overpayments classified as fraud are subject to the actions described (A) through (C) of this paragraph.

(A) **Notification.** ~~The FSSD Overpayment Section sends~~ Form ~~ADM-S-15~~ 08AD019E, Program Penalty/Disqualification Notice, is sent to the penalized Temporary Assistance for Needy Families (TANF) client. Form ~~ADM-S-15~~ 08AD019E informs the TANF client of a 25% payment standard reduction penalty.

(B) **Penalty period.** A TANF client is penalized with a 25% payment standard reduction for 12 months for the first violation, 24 months for the second violation, and permanently for the third violation.

(C) **Penalty effective date.** The 25% payment standard reduction penalty begins the date shown on Form ~~ADM-S-15~~ 08AD019E. Once the payment standard reduction penalty begins, it runs continuously until the end of the period imposed.

(2) If the case is prosecuted, OIG notifies the ~~county office~~ human services center (HSC) and the FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section of the disposition of the case. If the court finds the client guilty, the court may order a fine, restitution, imprisonment, or any combination of the three. The Oklahoma Department of Human Services (OKDHS) abides by the court decision.

(3) Court-ordered restitution does not relieve the client of any overpayment amount in excess of that judgment.

(A) If the client defaults on court-ordered restitution, the sentence may be accelerated.

(B) If the sentence is accelerated and the client serves a prison term, serving the prison term does not satisfy repayment of the monetary portion of the debt. At that point the debt may be subject to civil prosecution.

(C) The fact that a client is making restitution payments does not relieve the client of the obligation to sign Form ~~ABCD-51~~ 08OP002E, Affidavit of Acknowledgment of Indebtedness. Home property and personal property are exempt from this process. A lien may also be filed on declared real property if Form ~~ABCD-51~~ 08OP002E indicates property is owned.

(4) If OIG releases the case without a court decision or Form ~~H-S-13-A~~ 08OP016E, Administrative Hearing Disqualification Waiver, signed by the client, the FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section proceeds to collect the debt. In some instances, OIG discovers additional information that will affect the overpayment. The OIG gives this information to the FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section so they can adjust the overpayment.

340:65-9-5. Right to appeal

If there is a disagreement with the overpayment decision and the client has not signed Form 08OP16E, Administrative Disqualification Hearing Waiver, the household may request a fair hearing within 30 days of the date on Form ~~ADM-S-20~~ 08AD012E, Notification of Overpayment.

340:65-9-6. Development of repayment

(a) **Repayment of established overpayments.** Households must make repayment on all established overpayments regardless of the reason for the overpayment. Family Support Services Division (FSSD) ~~Overpayment~~ Benefit Integrity and Recovery Section initiates collection efforts against all adult household members who were included in the benefit at the time the overpayment occurred except those who are deceased. Collection may be received from two separate households for the same claim. The FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section sends the client Form ~~ADM-S-20~~ 08AD012E, Notification of Overpayment, that explains the acceptable methods of repayment for the debt classification.

(b) **Repayment options.**

(1) **Payment in full.** The client may repay an overpayment in one lump sum by personal check, money order, or cashier's check~~, or electronic benefit transfer (EBT) debit with a signed statement~~.

(2) **Monthly payments.** The client may repay an overpayment in regular monthly installments by personal check, money order, or cashier's check~~, or approved EBT debits~~.

(3) **Benefit reduction.**

(A) **Agency error.** The FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section processes a ~~5%~~ 10% reduction in the client's monthly allotment.

(B) **Inadvertent client error, willful misrepresentation.** The FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section processes a 10% reduction in the client's monthly allotment.

(C) **Fraud.** The FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section processes a 10% reduction in the client's monthly allotment as well as the 25% payment standard reduction penalty for Temporary Assistance for Needy Families (TANF) benefits.

~~(D) **Client authorized EBT debits.** A household may make a voluntary payment through a debit from the EBT Access Account.~~

(4) **Recoupment.**

(A) The recoupment rate cannot be changed unless the overpayment or the benefit received by the client is less than the recoupment amount ~~or the benefit received by the client is less than this amount~~. If the benefit amount is less than the recoupment amount specified, a benefit is not issued; however, the case remains active and a medical card is issued. The client may request recoupment not be initiated if a fair hearing regarding the overpayment is filed within 30 calendar days of the issuance date of the Form ~~ADM-S-20~~ 08AD012E.

(B) When recoupment is initiated or terminated, the client is notified by a computer-generated notice of the new warrant amount and its effective date.

340:65-9-7. Suspension of collection efforts

(a) The Family Support Services Division (FSSD) ~~Overpayment~~ Benefit Integrity and Recovery Section suspends collection ~~action~~ notice on cases no longer receiving benefits when the:

(1) head of household is deceased and there are no remaining household members responsible for the overpayment;

(2) household cannot be located;

(3) cost of further collection action is likely to exceed the amount that can be recovered; or

(4) client notifies the FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section, ~~is notified~~ that bankruptcy proceedings have been initiated.

(b) FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section may ~~reopen debts~~ begin collection actions held in suspension based on changes in household circumstances. The FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section initiates reduction in the benefit if the client reapplies and becomes eligible in the future. ~~County staff notify the FSSD Overpayment Section of case transfers.~~

340:65-9-8. Termination of collection of debt

In the case of repayment in full, the household is notified by a monthly overpayment account statement showing a zero balance owed or Form ~~ADM-S-20~~ 08AD012E, Notification of Overpayment, that the debt has been satisfied.

[OAR Docket #08-467; filed 3-27-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE

[OAR Docket #08-534]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1.General Provisions of Child Welfare Services
Part 1. Scope and Applicability
340:75-1-16 through 340:75-1-18.1 [AMENDED]
340:75-1-20 [AMENDED]
Subchapter 6. Permanency Planning
Part 8. Role of the Child Welfare Worker
340:75-6-48 [AMENDED]
Part 11. Permanency Planning and Placement Services
340:75-6-85 [AMENDED]
Subchapter 13. Other Child Welfare Services and Medical Services for Children in Out-of-Home Care
Part 1. Eligibility for Substitute Care Services and Claims for Payment
340:75-13-9 [AMENDED]
Part 2. Title IV-E Eligibility and Reimbursability
340:75-13-13 [AMENDED]
340:75-13-15 [AMENDED]
Subchapter 15. Adoptions
Part 2. Legal Base and Scope of the Adoption Program
340:75-15-5 [AMENDED]
Part 6. Adoption Process
340:75-15-41 [AMENDED]
Part 8. Adoptive Placement Process
340:75-15-61 [AMENDED]
Part 10. Adoptive Family Assessment and Preparation Process
340:75-15-84 [AMENDED]
340:75-15-87 [AMENDED]
Part 14. Post Adoption Services
340:75-15-128.2 [AMENDED]
(Reference APA WF 07-22 and 07-34)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; SB 553; SB 469; HB 1927; and Title 10 of the Oklahoma Statutes.
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None requested
Adoption:
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January 23, 2008
Submitted to House:
January 23, 2008
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January 23, 2008
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March 1, 2008
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 27, 2008.
Final adoption:
March 27, 2008
Effective:
May 15, 2008
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 1.General Provisions of Child Welfare Services
Part 1. Scope and Applicability
340:75-1-16 through 340:75-1-18.1 [AMENDED]
340:75-1-20 [AMENDED]
Part 11. Permanency Planning and Placement Services
340:75-6-85 [AMENDED]
Part 10. Adoptive Family Assessment and Preparation Process
340:75-15-84 [AMENDED]
340:75-15-87 [AMENDED]
(Reference APA WF 07-22)
Gubernatorial approval:
October 16, 2007
Register publication:
25 Ok Reg 269
Docket number:
07-1436
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The proposed revisions to Subchapters 1, 6, 13, and 15 of Chapter 75 amend the rules to bring the foster and adoptive home approval process into compliance with Senate Bill 553 (SB 553) and Senate Bill 469 (SB 469) as well as update agency procedures to comply with federal guidelines. Rules are amended to: (1) comply with HB1927 in repealing the Oklahoma Department of Human Services (OKDHS) authority to enter an objection to the release of a child from state custody; (2) ensure a face-to-face contact with the child in an Interstate Compact on the Placement of Children (ICPC) placement no less frequently than every six months with a report submitted regarding the content of the contact; (3) update the procedure for obtaining Oklahoma birth certificates for children in OKDHS custody; (4) update language to include the term constructive removal; (5) clarify that to qualify for IV-E, a child must be a citizen of the United States or have an alien status that qualifies for IV-E; (6) clarifies that Title IV-E, Section 472 of the Social Security Act allows a resource value of $10,000 for Title IV-E eligibility; (7) clarify that within 15 working days of receipt of the initial court order, the custody specialist makes

an initial eligibility determination for Title IV-E and reports the IV-E eligibility determination to the referring Child Welfare worker; (8) clarify that during the adoption criteria staffing process, every effort is made to place children with family; (9) clarify that in-person or telephone contact is made with each personal reference; (10) delete information that is contained in another section of policy; and (11) correct spelling, grammatical errors and update sentence structure.

CONTACT PERSON:

Dena Thayer, Programs Manager, Policy Management Unit, OKDHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 15, 2008:

SUBCHAPTER 1. GENERAL PROVISIONS OF CHILD WELFARE SERVICES

PART 1. SCOPE AND APPLICABILITY

340:75-1-16. Custody hearings, placement hearings, and court orders

(a) **Emergency custody hearing.**

(1) Within two judicial days after a child is taken into emergency or protective custody as an alleged deprived child, the child's parent(s), legal guardian, or custodian is entitled to an emergency custody hearing, and thereafter at such intervals as determined by the court. ~~The court conducts a~~ At the hearing, the court ~~to~~:

(A) ~~determine~~ determines whether to place the child into or continue the child in emergency custody, if continuation of the child in the child's home is contrary to the health, safety, or welfare of the child;

(B) ~~determine~~ determines whether to release the child to the parent(s), legal guardian, custodian, or other responsible adult, with or without conditions as the court finds reasonably necessary to ensure the health, safety, or welfare of the child.

(i) When a child has been removed from the custodial parent and, in the best interests of the child, the court is unable to release the child to the custodial parent, the court gives priority for placement of the child with the noncustodial parent of the child unless such placement would not be in the child's best interests.

(ii) When the court cannot place the child with the noncustodial parent, custody is awarded consistent with the preferences set forth in Section 21.1 of Title 10 of the Oklahoma Statutes, which are:

(I) grandparent;

(II) person indicated by deceased parent;

(III) relative;

(IV) person in whose home the child has been living in a wholesome and stable environment, including, but not limited to, a foster parent; or

(V) any other person deemed suitable by the court and able to provide adequate and proper care and guidance for the child.

(iii) Every effort should be made to place a child with a member of the child's family in a safe and appropriate placement.

(~~iii~~iv) When custody of the child cannot be made pursuant to these preferences, the reason for such determination is documented in the court record.

(~~iv~~v) When the court returns the child to the custody of a parent, relative, or other responsible party, the court may order the Oklahoma Department of Human Services (OKDHS) to provide supervision of the child; and

(C) ~~obtain~~ obtains information from the parent, legal guardian, or custodian necessary to identify and locate kinship placement resources.

(D) requires OKDHS to provide to any custodian or other person caring for the child information on OKDHS programs available to the child; and

(E) requires OKDHS to provide written notice of any further proceedings to any foster or preadoptive parents or relatives providing care for the child.

(2) The purpose of the emergency custody hearing is to show cause why the child was taken into custody or why custody should not return to the parent(s).

(A) An order for removal of a child from the home must make a determination:

(i) that continuation of the child in his or her home is contrary to the child's health, safety, or welfare or is in the child's best interests; and

(ii) whether reasonable efforts to prevent removal were made or, in the absence of preventive efforts, if removal of the child is due to an emergency and is for the child's safety. [10 O.S. § 7003-2.4(G)(1)(a) through (d)]

(B) The judge may enter an order that reasonable efforts are not required, per OAC 340:75-1-18.4.

(C) The emergency custody order may not remain in effect for more than 60 days absent a showing that future extension is necessary to ensure the health, safety, or welfare of the child and is in the best interests of the child.

(b) **Opportunity to be heard in placement and custody decisions.** At any hearing under the Oklahoma Children's Code for the purpose of determining the placement of a child or whether a child in the state's custody, whether protective, emergency, temporary, or permanent, is to be released from such custody, the court provides an opportunity for a representative from OKDHS, the current foster parent, guardian ad litem, and child, if of sufficient age, to present sworn testimony regarding this placement or release. [10 O.S. § 7003-6.2A]

(1) The Child Welfare (CW) worker may be cross-examined by the court and the parties to the case.

(2) The hearing is on the record and the court must issue a written finding.

(3) OKDHS does not have the same right to be heard when the district attorney is declining to file a petition and the child is released by operation of law.

(c) **Objection to release from the state's custody and review of court order.** At any hearing where a child is to be released from the state's custody, whether protective, emergency, temporary, or permanent custody, a determination must be made about whether the court order releasing the child from the state's custody creates a serious risk of danger to the health or safety of the child. The DA and attorney for the child may make an objection to the release of a child from the state's custody.

~~(1) **Determination of serious risk of danger to the health or safety of the child.** The OKDHS representative makes the determination of serious risk of danger to the health or safety of the child based upon the considerations in this paragraph.~~

~~(A) Any circumstance in which the child will be placed in the custody of an unsafe caregiver where there is likelihood that significant injury, life threatening consequences, or sexual abuse will occur. Examples include, but are not limited to, a caregiver who;~~

~~(i) has an untreated mental illness;~~

~~(ii) has significant history of child abuse, substantial neglect, or domestic violence;~~

~~(iii) uses alcohol or drugs to the extent it interferes with day-to-day functioning;~~

~~(iv) displays aimless and chronically dangerous parenting practices;~~

~~(v) previously harmed a child, which resulted in significant injury, life threatening consequences, sexual abuse, or death;~~

~~(vi) previously had parental rights terminated or relinquished parental rights to a child due to child abuse or neglect; or~~

~~(vii) allows or will continue to allow others who have displayed any of the conditions in (A) to have access to the child.~~

~~(B) Significant injury and life threatening consequences are more likely to occur to a child three years of age or younger; or to a child of any age who has a disability or any other condition that renders the child totally dependent on the care of others.~~

~~(2) **Review of court order.**~~ The court is required to stay the order when the DA or attorney for the child objects, pending the filing of an application by the objecting party. When verbal notice of an objection is given, the procedure in ~~(A)~~(1) through ~~(C)~~(3) of this subsection is followed.

(~~A~~1) The party giving notice of objection and intention to seek review of the court order files with the presiding judge of the administrative judicial district, ~~no later than 5:00 p.m. the following judicial day~~ within three judicial days from the custody order, a written application to review the order. ~~If OKDHS is the only one to object to the court order, the written application to review the court order is filed by OKDHS.~~

(~~B~~2) If the written application is not filed timely or a written notification is received that the objection is withdrawn, the objection is considered abandoned and the stay is lifted.

(~~C~~3) When the application is filed timely, the presiding judge of the administrative judicial district assigns a juvenile judge within the judicial district to complete a review of the order.

(~~i~~A) The review is completed within five judicial days of the filing of the written application for review.

(~~ii~~B) When there is no finding of serious risk of danger, the reviewing judge orders the stay lifted and the child released according to the order under review.

(~~iii~~C) When the reviewing judge finds a serious risk of danger, the court issuing the order under review is required to enter another order. [10 O.S. § 7003-6.2]

(d) **Directed placement not allowed.** If the court determines it would be in the best interests of a child, the court may place the child in the legal custody of OKDHS. If the child is placed in OKDHS custody, the court may not direct OKDHS to place the child in a specific home or placement.

(e) **Right to be heard.** A right to be heard at all proceedings is provided by the court to the current foster parent of a child, the child's guardian ad litem, and to any preadoptive parent or relative providing care for the child. Such notice and right to be heard is not construed as requiring any foster parent, preadoptive parent, or relative be made a party to such action.

340:75-1-17. Adjudicatory hearing

(a) **Adjudicatory hearing.** The adjudicatory hearing is a proceeding in which the district attorney, representing the State, must prove that the allegations of the deprived petition are supported by evidence and whether the child should be adjudged a ward of the court. Oklahoma Statutes provide that pre-adjudicatory custody orders are in effect for only a 60 day period. An extension can be ordered by the court after the court has been shown that further extension is necessary to insure the health, safety, or welfare of the child and is in the best interests of the child. In such cases where the district attorney has requested in the petition that reasonable efforts are not required, a finding of such may be made by the court. A permanency hearing is required within 30 days after the court has made a determination that reasonable efforts are not required. The order of adjudication must include a statement that advises the parents, legal guardians or custodians that failure to comply with the requirements of the court may result in the loss of custody of the child or the termination of their parental rights.

(b) **Notification of hearing.** Prior written notice of the hearing, Form 04MP030E, Hearing Notification, is provided by OKDHS to the current foster parent of the child, any preadoptive parent or relative providing care for the child. A right to be heard is provided by the court to the current foster parent of the child, any preadoptive parent or relative providing care for the child. A right to be heard is not construed as requiring any foster parent, preadoptive parent, or relative be made a party to such action.

340:75-1-18. Dispositional hearing

(a) **Dispositional hearing.** After a child is adjudicated deprived, the court holds a dispositional hearing, per Section 7003-5.5 of Title 10 of the Oklahoma Statutes. The court must enter a dispositional order on the same day or within 40 days of adjudication, unless the court finds on the record that the child's best interests are served by granting a delay.

(1) If the court grants a delay, the court must state why the delay is necessary and the minimum amount of time needed to resolve the reasons for delay.

(2) If the child is removed from the parent(s)' custody, the court or the Oklahoma Department of Human Services (OKDHS), as applicable, immediately considers concurrent permanency planning, to ensure permanency for the child at the earliest opportunity. Identification of appropriate in-state and out-of-state placement should be made so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child.

(b) **Dispositional hearing purpose.** The purpose of the dispositional hearing is to determine the service needs of the child and family and custody of the child during the deprived case. The court considers all evidence that is helpful in determining the disposition that is in the child's best interests.

(1) At the hearing, the recommended treatment and service plan is presented to the court. The judge makes the final decision regarding whether the proposed treatment and service plan is accepted and whether a court order is issued regarding compliance with any or all recommendations. The family is ultimately responsible for only those recommendations that are court-ordered, per OAC 340:75-6-40.4.

(2) The dispositional order includes a statement informing the child's parent(s) that the consequences of non-compliance with the court's requirements may include, as applicable, loss of custody of the child or termination of the parent(s)' rights to the child. If reasonable efforts are required for the return of the child to the child's home, the parent(s) of the child must be given at least three months to correct conditions that led to the adjudication of the child, prior to requesting termination of parental rights.

(3) The dispositional order is reviewed by the court at least once every six months until:

(A) conditions that caused the child's adjudication are corrected;

(B) the parent(s)' rights to the child are terminated and a final adoption is decreed;

(C) permanent care and custody of the child is awarded to another person or a kinship guardian is granted; or

(D) the court terminates jurisdiction.

(c) **Special rules regarding custody orders.** Before placing custody of a child with the parent(s), legal guardian, legal custodian, or other suitable person, the court must consider the order of custody preference and the person's background, per Sections 21.1 and 7003-8.1 of Title 10 of the Oklahoma Statutes.

(1) **Order of custody preference.** Every effort is made to place a child with a member of the child's family in a safe and appropriate home. When a child is removed from the custodial parent and the court, in the child's best interests, is unable to release the child to the custodial parent, or, as the next priority preference, give placement to the noncustodial parent, custody is awarded, per Section 21.1 of Title 10 of the Oklahoma Statutes, to a:

(A) grandparent;

(B) person indicated by wishes of a deceased parent;

(C) relative of either parent;

(D) person in whose home the child has been living in a wholesome and stable environment; or

(E) any other person deemed by the court to be suitable. If the court determines custody of the child cannot be made according to the order of preference, the court must document the reasons in the court record.

(2) **Background considerations.** The court is prohibited from placing custody of a child with a person who is subject to the Oklahoma Sex Offenders Registration Act or with a person who is married to or living with a person who is subject to the Oklahoma Sex Offenders Registration Act.

(A) "Person" does not include a parent, legal guardian, or legal custodian of a child.

(B) Before awarding custody, the court must inquire whether the person has been previously convicted of any felony, relevant misdemeanor, or has such charges pending. A person requesting custody must respond to the court's inquiry by affidavit or sworn testimony and provide the court with an Oklahoma criminal history record.

(3) **Presumptions against placement.** Custody or visitation with a child is not granted to any person if the custody or visitation established will likely expose the child to a foreseeable risk of material harm. There is a rebuttable presumption that it is not in the child's best interests to have custody or visitation granted to a person who:

(A) is or has been subject to, or resides with anyone who is subject to the Oklahoma Sex Offenders Registration Act;

(B) was convicted of or resides with a person who was convicted of a crime of child abuse, neglect, or of a sexual nature;

(C) was convicted of or resides with a person who was convicted of domestic abuse within the past five years; or

(D) is found alcohol or drug dependent by clear and convincing evidence and expected in the near future to inflict or attempt to inflict serious bodily harm to self or others as a result of dependency.

(d) **Dispositional options.** Subject to the conditions and restrictions per OAC 340:75-1-18(c), the court makes one or more dispositional orders, including:

(1) placing the child under supervision by OKDHS in the child's own home with the child's custodial parent, legal guardian, or legal custodian from whom the child was removed, or placement with the noncustodial parent. The court may specify conduct to be followed by the parent and any other adult in the home. Supervision by OKDHS may not exceed one year unless extended by the court;

(2) placing the child with a suitable person, including a grandparent, relative, or other person specified in OAC 340:75-1-18(c)(1);

(3) placement of the child in the custody of a private institution or agency;

(4) ordering the child to receive counseling or other community-based services;

(5) committing the child to the custody of OKDHS;

(6) ordering the parent, legal guardian, legal custodian, stepparent, or other adult living in the home, or other person or agency receiving custody of the child, to follow any treatment and service plan prescribed by OKDHS;

(7) ordering a child's permanent care and custody transferred to another person upon the written consent of the parent(s) of the child, per OAC 340:75-1-18.2;

(8) ordering a child's permanent care and custody transferred to a kinship guardian, per OAC 340:75-1-18.3; and

(9) dismissing the petition and terminating its jurisdiction at any time for good cause when in the child's best interests.

(e) **Additional court determinations.** The court makes a determination whether:

(1) reasonable efforts:

(A) have been made to reunite the child with his or her family;

(B) are no longer feasible and are being made to secure an alternate permanent placement for the child;

(C) have been taken to finalize the permanent placement of the child including, if appropriate, through an interstate placement; or

(D) to reunite the child with the family are not required, per OAC 340:75-1-18.4;

(2) an out-of-home placement continues to be appropriate and in the child's best interests; and

(3) services provided to assist any youth, 16 years of age or older, in the transition from out-of-home care to independent living are appropriate.

(f) **Notification of hearing.** Prior written notice of the hearing, Form 04MP030E, Hearing Notification, is provided by OKDHS to the current foster parent of the child, any preadoptive parent or relative providing care for the child. A right to be heard is provided by the court to the current foster parent of the child, any preadoptive parent or relative providing care for the child. A right to be heard is not construed as requiring any foster parent, preadoptive parent, or relative be made a party to such action.

340:75-1-18.1. Permanency hearings

(a) **Permanency hearing.** State and federal law determine the requirements for permanency hearings. The judge conducts the hearing and makes determinations, per Section 7003-5.6d of Title 10 of the Oklahoma Statutes. Oklahoma Department of Human Services (OKDHS) Child Welfare (CW) workers are responsible for providing the court with the necessary information to conduct the hearing. A permanency hearing is held for any case regarding a child alleged or adjudicated deprived no later than:

(1) six months from the date of the child's placement in out-of-home care and every six months thereafter; and

(2) 30 days after a determination that reasonable efforts are not required and every six months thereafter.

(b) **Permanency report.**

(1) Prior to a permanency hearing, the CW worker prepares a report regarding the child for the court's review by contacting:

(A) the child's current foster parent;

(B) the parent(s) or parent(s)' attorney;

(C) a post adjudication review board (PARB) member;

(D) the child's guardian ad litem, if applicable; and

(E) the child's attorney.

(2) Information gathered from these persons is used by the CW worker to assist in the preparation of Form 04KI009E, Court Report, or 04KI014E, Individualized Service Plan (ISP) Progress Report, as applicable. The applicable court report includes, at a minimum, the:

(A) efforts and progress demonstrated by the child's parent(s) to complete an individual treatment and service plan;

(B) extent to which the parent(s) or legal guardian cooperated and used the services provided;

(C) status of the child, including the child's mental, physical, and emotional health; and

(D) permanency plan for the child and, if the child is age 16 or older, the independent living plan.

(E) in and out-of-state placement options considered for the child.

(c) **Notification of hearing and ~~opportunity~~ right to be heard.** Prior written notice of the hearing, Form 04MP030E, Hearing Notification, is provided by OKDHS to the current foster parent of the child, any preadoptive parent or relative providing care for the child~~, and the child's guardian ad litem~~. ~~An opportunity~~ A right to be heard is provided by the court. Such notice and ~~opportunity~~ right to be heard is not construed as requiring any foster parent, preadoptive parent, or relative be made a party to such action.

340:75-1-20. Six-month judicial review

(a) **Review requirements.** Section 7003-5.6 of Title 10 of the Oklahoma Statutes requires that the court review every case regarding a child alleged or adjudicated deprived no later than six months after the date of the child's out-of-home placement and at least once every six months thereafter until the child is returned to the custody of the parent(s), legal guardian, or legal custodian and the conditions that caused the child to be adjudicated deprived have been corrected, permanent care and custody has been awarded to a suitable custodian or kinship guardian, or the parent(s)' rights have been terminated and final adoption decreed.

(1) A child is considered to have entered out-of-home placement the earlier of:

(A) the date of adjudication; or

(B) 60 days after the child's removal from the home.

(2) The six-month judicial review requirement applies to a child who was removed from and returned to the home of the parent(s), legal guardian, or legal custodian until the court orders the case dismissed.

(3) A review hearing may be held concurrently with a permanency hearing.

(b) **Judicial review report.** The legal custodian of the child prepares the report for the court. Oklahoma Department of Human Services (OKDHS) prepares the report when OKDHS has court-ordered supervision of the child.

(1) The report includes:

(A) a summary of the parent(s)' current situation;

(B) the child's physical, mental, and emotional condition;

(C) the conditions existing in the child's home or out-of-home placement and the child's adjustment;

(D) the child's progress in school;

(E) visitation exercised by the child's parent(s) or other persons authorized by the court;

(F) if applicable, independent living services provided to a youth, 16 years of age or older, since the last court hearing; and

(G) when OKDHS is the legal custodian of the child, any efforts by the parent(s) to correct the conditions that caused the child to be adjudicated deprived.

(2) The court's determination, in part, is based upon the report that must specifically address, recommend, and provide reasons, whether:

(A) the child should be returned to the child's parent(s) or placed with willing and suitable kinship relations, taking into consideration in-state and out-of-state placement options. Before a return to the child's parent(s) is ordered, the court must find the parties have:

(i) complied with, performed, and completed the terms and conditions of the court-ordered individual treatment and service plan that are essential and fundamental to the child's health, safety, or welfare as determined by the court;

(ii) corrected conditions that caused the child to be adjudicated and that the court determines essential and fundamental to the child's health, safety, or welfare;

(iii) made marked progress towards reunification with the child; and

(iv) maintained a close and positive relationship with the child;

(B) the child should continue in out-of-home placement for a specified period. The court projects a likely date by which the child may be returned to and safely maintained in the home, placed with a suitable guardian or custodian, placed for adoption, or other permanent arrangement;

(C) the rights of the child's parent(s) should be terminated and the child placed for adoption, placed with a guardian or custodian, or provided with another permanent arrangement;

(D) the child, because of exceptional circumstances, should remain in long-term out-of-home placement as a permanent plan or with a goal of independent living;

(E) reasonable efforts have been made to provide for the child's safe return to the home;

(F) reasonable efforts are being made to place the child in a timely manner in accordance with the permanency plan and complete the steps necessary to finalize permanent placement for the child, when the court determines that reasonable efforts are not required or that continuation of reasonable efforts to reunite the child with the child's family is inconsistent with the permanency plan;

(G) when applicable, the youth, 16 years of age or older, receives appropriate services that assist in making the transition from out-of-home care to independent living. The court inquires or causes inquiry to be made of the child regarding any proposed independent living plan;

(H) the nature and extent of the services provided to the child and parent(s) ensure the safety of the child and protection from further physical, mental, or emotional harm, and, if necessary, order additional services to correct the conditions that led to the child's adjudication; and

(I) to modify the existing individual treatment and service plan as the court determines it is in the child's best interests and necessary for the correction of the conditions that led to the child's adjudication.

(c) **Review hearing.** At the review hearing the Child Welfare (CW) worker provides information similar to that offered at the dispositional hearing, with special emphasis on the progress on the court-ordered treatment and service plan. The court reviews all evidence that assists in decision-making including, but not limited to, oral and written reports presented by CW and others involved in the case.

(d) **Notice of hearing.** OKDHS provides written notice of review hearings via Form ~~DCFS-83~~ 04MP030E, Hearing Notification, to the preadoptive parent(s), relative, and current foster parent. The court provides the ~~opportunity~~ right to be heard to the current foster parent of the child, any preadoptive parent, or relative providing care for the child~~, and the child's guardian ad litem~~. Such notice and ~~opportunity~~ right to be heard is not construed as requiring any foster parent, preadoptive parent, or relative be made a party to such deprived proceedings.

SUBCHAPTER 6. PERMANENCY PLANNING

PART 8. ROLE OF THE CHILD WELFARE WORKER

340:75-6-48. CW worker contacts with child, placement providers, parents, and service providers

(a) **Child and placement provider.** The purposes of a Child Welfare (CW) worker's contacts include, but are not limited to, maintaining the child's connections to his or her family, allowing the worker to evaluate the interactions, conditions, and services the child is receiving, particularly those in the home or in placement, and establishing and maintaining a teamwork relationship. CW worker contacts with the child in Oklahoma Department of Human Services (OKDHS) custody and the placement provider are provided in (1) through (7).

(1) **Foster family care and therapeutic foster care.**

(A) The CW worker in the county of placement has face-to-face contact with the child in the foster home within the first two weeks of each placement and a minimum of once every calendar month thereafter, with no more than 31 days between contacts. This applies to a child placed in:

(i) paid or non-paid kinship placement;

(ii) regular foster care;

(iii) contract foster care; and

(iv) therapeutic foster care.

(B) When the child is placed in a county other than the county of jurisdiction, the county of jurisdiction worker contacts monthly, either by phone, electronic mail, or in person, the CW worker in the county of placement to discuss and determine responsibility for any pertinent actions that either require follow-up or initiation in order to achieve the permanency plan for the child.

(C) Contacts increase in times of change and stress.

(D) If there is good cause to believe that a child needs to be interviewed privately during a contact in the foster home, for reasons other than abuse and neglect allegations, the foster parent provides a place in the home where the child can be interviewed outside the foster parent's presence.

(2) **Shelter.** A CW worker has face-to-face contact with the child at the shelter within 24 hours of the child's entry into the shelter and a minimum of once weekly while the child remains in the shelter. During the shelter stay, when the child's CW worker offices:

(A) within 60 miles of the shelter, the CW worker visits and provides any identified services to the child; or

(B) more than 60 miles from the shelter, the assigned shelter liaison visits and provides any identified services to the child. The child's CW worker contacts weekly, either by phone or in person, the shelter social worker while the child remains in shelter care, per OAC 340:75-10-10.

(3) **Emergency foster care.** When the child is placed in emergency foster care, the CW worker:

(A) has face-to-face contact with the child in the emergency foster home once every calendar month, with no more than 31 days between contacts; and

(B) attends weekly staffings with the emergency foster care contract agency.

(4) **Community-based residential care - non-OKDHS operated.** When the child is placed in a group home or specialized community home, the CW worker has face-to-face, private contact with the child and placement provider in the placement once every:

(A) calendar month, with no more than 31 days between contacts, when the child's placement is 30 miles or less from the county of jurisdiction; and

(B) 90 days when the child's placement is over 30 miles from the county of jurisdiction.

(i) The facility liaison contacts the child and placement provider during the months the CW worker does not have a face-to-face contact with the child.

(ii) Each calendar month the facility liaison completes the required contact with the child, the CW worker contacts the facility liaison to communicate any pertinent actions that either require initiation or follow-up in order to achieve the child's permanency plan.

(5) **Community-based residential care - OKDHS operated.** When the child is placed in an OKDHS operated group home, the CW worker has phone or personal contact with the child and group home worker once every calendar month, with no more than 31 days between contacts. The group home worker visits with the child and coordinates or completes any applicable permanency planning duties pertaining to the child.

(6) **Inpatient treatment - acute.** When a child is in acute inpatient treatment, face-to-face contact with the child at the placement location is provided by the facility liaison every calendar month, with no more than 31 days between contacts.

(A) Daily phone contact is maintained between the mental health facility and the child's CW worker during the first five working days of treatment.

(B) If the child remains in acute inpatient treatment in excess of five working days, the CW worker contacts the child's therapist or other mental health professional and facility liaison by phone a minimum of once a week and inquires about the child's progress in order to facilitate the discharge plan, per OAC 340:75-16.

(7) **Inpatient treatment - residential.** When the child is in inpatient residential treatment, face-to-face contact with the child at the placement location is provided by the facility liaison every calendar month, with no more than 31 days between contacts. Close contact is maintained between the liaison and the child's worker. In addition, the CW worker:

(A) has on-site interaction with the child every:

(i) calendar month, with no more than 31 days between contacts if the child's placement is 30 miles or less from the county of jurisdiction; and

(ii) 90 days if the child's placement is over 30 miles from the county of jurisdiction; and

(B) contacts the child's therapist or other mental health professional by phone every two weeks and inquires about the child's progress toward the discharge plan, per OAC 340:75-16.

(8) **Own home.**

(A) The CW worker has face-to-face private contact with the child a minimum of once every calendar month, with no more than 31 days between contacts. When the child:

(i) initially returns to the parent(s) or is in the custody of the parent(s) in a supervision only case, the first three contacts are in the child's home. Contact location may then alternate between the home and any other location; and

(ii) has been returned to the parent(s) for at least six months and OKDHS has been ordered to continue legal custody, supervision, or both, the CW worker has one face-to-face private contact with the child within two weeks prior to each scheduled court hearing unless more frequent visits are ordered by the court in order to obtain updated information to provide to the court.

(B) Contacts are increased during times of change and stress.

(b) **Child - special case circumstances.** There are several special case circumstances when minimum required contacts with the child and placement provider may be allowed. The decision to allow the use of the minimum required contact rule requires CW supervisory approval. Reduced contact with the child and family is not considered when concerns are identified that require more intensive contact. The circumstances and the minimum amount of required contact are detailed in (1) through (6).

(1) **Own home with CHBS.** When there is an open Comprehensive Home-Based Services (CHBS) case for the purpose of reunification of a child in the custody or supervision of OKDHS, the assigned contract case manager (CCM) has face-to-face, private contact with the child in the home per contract specifications and the CW worker has face-to-face private contact with the child in the home a minimum of once every 90 days. The CW worker contacts the CCM monthly, either by phone or in person, and inquires about case circumstances and identified needs.

(2) **DDSD placement.** When a child in the custody of OKDHS is in a Developmental Disabilities Services Division (DDSD) placement, DDSD case management staff provides services to the child, per OAC 317:40-5-57. The CW worker:

(A) in the county of placement has face-to-face, private contact with the child in the home a minimum of once every 90 days;

(B) in the county of placement contacts, either by phone or in person, the DDSD case manager monthly and inquires about case circumstances and identified needs; and

(C) in the county of jurisdiction, when the child is placed outside the county of jurisdiction, contacts monthly, either by phone, electronic mail, or in person, the CW county of placement worker to communicate any pertinent actions that require initiation or follow-up in order to achieve the permanency plan for the child.

(3) **Youth, 18 years or older, in voluntary placement.** The CW worker's contact with the youth, 18 years or older, in placement voluntarily, is determined jointly by the CW supervisor, CW worker, youth, and placement provider.

(A) A minimum of one face-to-face contact with the youth is required in the placement location every six months until case closure.

(B) During the months when the CW worker's contact with the youth is not in the provider's home, the worker contacts the youth and the provider by phone.

(4) **Custody with relative or another person with OKDHS supervision.** The CW worker has face-to-face contact with the child placed in the custody of a relative or another person with OKDHS supervision a minimum of once every calendar month, with no more than 31 days between contacts. The location of the worker's contact may alternate between contact in the home and any other location.

(5) **ICPC placement in residential treatment centers or group homes.** The CW worker has face-to-face contact with the child at least every 90 days in the facility when placed in Oklahoma and every six months when placed out-of-state through Interstate Compact on the Placement of Children (ICPC), per OAC 340:75-1-86.

(6) **Sunbeam Family Programs placement.** When the child in out-of-home placement is placed with Sunbeam Family Programs, the assigned Sunbeam Family Programs worker has face-to-face, private contact with the child in the home per contract specifications. This worker's contact meets the minimum monthly requirement for contact with the child. The CW worker maintains responsibility for coordination and completion of Form 04KI009E, Court Report, or 04KI014E, Individualized Service Plan (ISP) Progress Report, and attendance at any court hearing involving the child.

(7) **ICPC placement with parent, relative, or foster home.** The CW worker assures that an agency caseworker of the receiving State makes a face-to-face contact with the child in the parent, relative, or foster home no less frequently than every six months and submits a report on the content of the contact.

(c) **Parents.** The CW worker has face-to-face contact with the parent(s) of the child within the first two weeks of the child's removal and a minimum of once every calendar month thereafter, with no more than 31 days between contacts. The CW supervisor and worker decide the location of the contact based upon case circumstances. The CW worker makes a home visit when assessing the home for reunification purposes. Exceptions to contacts with the parent(s) are made when:

(1) the child has been returned to or has never been removed from the parent(s)' custody and OKDHS has been ordered to provide supervision. The first three contacts by the CW worker are in the parent(s)' home. Contact

location may then alternate between the home and any other location;

(2) there is an open CHBS case for the purpose of reunification. The CCM has contact with the parent(s) in the home per contract specifications and the CW worker has contact with the:

(A) parent(s) in the home a minimum of once every 90 days; and

(B) assigned CCM monthly, by phone or in person, to:

(i) staff the case;

(ii) discuss current case circumstances; and

(iii) assess the need for more intensive contact by the CW worker;

(3) the child has been returned for at least six months and OKDHS has been ordered to continue legal custody, supervision, or both. The CW worker has one face-to-face private contact with the parent(s) within two weeks prior to each scheduled court hearing unless more frequent visits are ordered by the court in order to obtain updated information to provide to the court. Contacts are increased during times of change and stress;

(4) the parent(s)' whereabouts are unknown;

(5) parental rights have been terminated; or

(6) other justified reasons exist that are documented in the case record.

(d) **Parents - special circumstances.** Phone contact with the parent(s) of the child is allowed in place of face-to-face contact when the parent(s) is incarcerated or living out-of-state. The CW county of jurisdiction worker is responsible for contact unless an exception applies. Appropriate exceptions include, but are not limited to, the:

(1) parent(s) has had no contact with the child and the child does not wish to have contact;

(2) parent(s) is incarcerated for an offense that resulted in the death penalty; or

(3) length of the parent(s)' incarceration is expected to surpass the date of the child obtaining the age of majority.

(e) **Service providers.** The CW worker has phone contact at least quarterly and no later than ten working days prior to each court hearing with any service provider for the child, parent(s), or family in order to obtain current information regarding the client's treatment status and obtain the service provider's recommendation regarding whether services are continued or terminated or additional services are necessary.

(f) **OCS providers.** The CW worker contacts the Oklahoma Children's Services (OCS) provider and:

(1) schedules, attends, and presents safety issues and needed changes at the CHBS intake staffing no later than 15 working days from the date the authorized referral is assigned;

(2) participates in monthly staffings, in person or by phone, with the assigned CCM or parent aide;

(3) reviews at least monthly the CCM or parent aide KIDS contacts and reports; and

(4) responds to critical incident reports, faxed or phoned in to the CW worker by the CCM or parent aide, that are risk alerts, per OAC 340:75-1-152.9.

PART 11. PERMANENCY PLANNING AND PLACEMENT SERVICES

340:75-6-85. Placement responsibilities

(a) **CW responsibilities.** The Child Welfare (CW) worker is responsible for the placement of a child who is removed from the home and placed in the custody of Oklahoma Department of Human Services (OKDHS) by law enforcement and court order.

(1) OKDHS follows the provisions of the Multiethnic Placement Act of 1994 and the Interethnic Adoption Provisions of 1996, per OAC 340:75-1-9, unless the court finds that the Indian Child Welfare Act applies to the child.

(2) When determining placement for a child who is removed from the custodial parent and placed in emergency OKDHS custody, priority is given to placement with the noncustodial parent unless such placement is not in the child's best interest.

(3) If OKDHS determines that placement with the noncustodial parent is not in the child's best interest, placement preference per Section 21.1 of Title 10 of the Oklahoma Statutes (10 O.S. § 21.1) is followed, such as:

(A) grandparent;

(B) person indicated by deceased parent;

(C) relative; and

(D) person in whose home the child has been living in a wholesome and stable environment, including, but not limited to, foster parent, or any other person deemed suitable by the court.

(4) If custody of the child cannot be made pursuant to 10 O.S. § 21.1, the reason for such determination is specified in the CW case record and provided to the court.

(5) Placement responsibility includes, per 10 O.S. § 7003-7.1 and OAC 340:75-6-85.1 through 340:75-6-85.4, ensuring the provision of:

(A) food;

(B) clothing;

(C) shelter;

(D) medical care;

(E) education;

(F) basic care;

(G) protection; and

(H) safety for the child.

(6) When the court determines it would be in the best interests of the child, the court may place the child in the legal custody of OKDHS. If the child is placed in OKDHS custody, the court may not direct OKDHS to place the child in a specific home or placement.

(b) **Appropriate placement.** OKDHS has the responsibility to determine whether a placement is an appropriate placement for a child in OKDHS custody, and to remove a child from a placement when it is in the child's best interest, per 10 O.S. § 7202.

(1) Every effort is made to place the child within his or her own community, school district, or both, in order to minimize the disruption for the child and ensure consistency with education. When a child is placed with a

noncustodial parent, the noncustodial parent's home is considered the child's home community.

(2) The federal Indian Child Welfare Act (FICWA), 25 United States Code § 1915, Oklahoma Indian Child Welfare Act (OICWA), 10 O.S. § 40.6, and OAC 340:75-19-14 define placement preferences for Indian children.

(3) Consideration is given to the parent(s)' wishes regarding religious preference in the selection of a placement provider for the child.

(4) In order to promote stability and healthy growth of the child, it is the intent of OKDHS to limit the number of times a child is moved in out-of-home placement.

(A) If reunification is not feasible or is delayed, the placement made is the best available placement to provide permanency for the child.

(B) A request by a placement provider for immediate removal of a child is examined and assessed regarding whether the situation can be resolved in order to prevent disruption of the placement.

(c) **Prescribed standards.** All placements utilized by OKDHS are approved or licensed by specified procedures and meet prescribed standards. A child in the custody of OKDHS is not placed in a home, whether temporary or closely related, prior to the provider meeting standards per OAC 340:75. Placements must be safe, have sufficient space to allow the child privacy, and the provider must:

(1) support and participate in the child's permanency plan;

(2) adhere to OKDHS rules, such as not using physical discipline; and

(3) support the child's preferred religion and cultural choices.

(d) **Child's placement preference.** The child's statements and placement preferences are considered in making case decisions and are recorded on Form 04KI011E, Preadjudication Court Report, 04KI013E, Individualized Service Plan (ISP) Dispositional Report, 04KI009E, Court Report, or 04KI014E, Individualized Service Plan (ISP) Progress Report, when the child's age and developmental abilities allow. Since the child's preferences are not the sole consideration in determining placements and case plan decisions, preferences are evaluated regarding reasons or causes, degree of consistency, and implications for the permanency plan.

(e) **Court decisions regarding the child's placement.** The court does not place a child in the custody of a person who is subject to the Sex Offenders Registration Act or a person living with someone subject to the Sex Offenders Registration Act.

(1) "Person" does not include a parent, legal guardian, or legal custodian of the child.

(2) The court inquires, prior to placing custody of a child with the person, whether the person has been convicted of a felony or a relevant misdemeanor, including assault and battery, alcohol or drug offenses, domestic abuse, and other charges, or has any charges pending.

(3) Prior to the custody order being issued, the person requesting custody must present an affidavit or sworn testimony to the court and provide an Oklahoma criminal history background check, per 10 O.S. § 7003-8.1.

(f) **Foster home placements.** The provisions in (1) through (8) apply to placements in a paid or non-paid kinship, foster, or therapeutic foster home.

(1) **Preplacement visit.** Whenever possible, a preplacement visit for any child five years of age or older is held with the foster parent. The CW worker involved in the preplacement visit makes every effort to discuss with the child how the care, supervision, and guidance, including, but not limited to, parental substitute authority, will be achieved.

(2) **Foster parents may submit reports or present testimony in court.** Foster parents are entitled to provide the court with written reports or verbal testimony concerning the strengths, needs, behavior, important experiences, and relationships regarding the child, and may provide information requested by the court.

(3) **Foster parents informed of hearings.** The foster parent and child are given adequate prior written notice by the CW worker of all court hearings, including the date, time, place of hearing, name of judge, docket number, and the right to participate, per OAC 340:75-1-20. The foster parent is advised of the decisions made by the court regarding the child.

(4) **Foster parents preferred placement.** When a child re-enters out-of-home care and a relative or kinship placement is unavailable, the foster parent who previously cared for the child is the preferred placement option if the placement is in the child's best interest and the best interest of any other child in the foster home.

(5) **Foster parents informed of review meetings, permanency planning meetings, and special staffing.** Foster parents are advised of any local post adjudication review board meetings and special staffing, including scheduled permanency planning review meetings and the foster parent's right to participate.

(6) **Previous placement information.** Foster parents are provided the opportunity to contact and communicate with a previous foster parent for the child in order to share information about the child, if authorized by the previous foster parent. The foster parent is informed of the number of times a child has been moved and the reasons why.

(7) **Court-approved treatment and service plan.** Foster parents are provided a copy of the court-approved treatment and service plan.

(8) **Eligibility to adopt the child.** During any permanency hearing, if the court determines the child is to be placed for adoption and the child has resided with the foster parent for at least one year, the court must also consider the foster parent eligible to adopt the child unless there is an existing, loving, emotional bond with a relative of the child, by blood or marriage, who is willing, able, and eligible to adopt the child.

(g) **Respect for the foster parents or placement providers.** The CW worker treats the foster parent or placement provider as a professional member of the CW team and with dignity, respect, and consideration. The CW worker cooperates with the foster parent or placement provider to provide a mutual exchange of information, including, but not limited to:

(1) the child's physical and emotional development;
(2) significant statements and behaviors that may affect the child's permanency plan and progress;
(3) school events; and
(4) any other concern.

(h) **Foster parents' relationship with the child.** Foster parents provide the child's basic needs, such as food, clothing, and shelter, and nurturing, emotional support, and direction and guidance for the child's growth and development.

(1) The foster relationship may be recorded through photographs, Life Book, exchange of gifts, and contact after the placement is completed.
(2) Section 7206.1 of Title 10 of the Oklahoma Statutes and OAC 340:75-7-37 recognize foster parents as essential participants in the decisions related to the growth, development, care, protection, and treatment of a child placed in their home with whom they have established a familial relationship.

(i) **Least restrictive.** Placements are made in the least restrictive or most home-like setting that will meet the child's needs and provide for the child's safety, per OAC 340:75-6-85 through 340:75-6-85.4. Every effort is made to place a child with a member of the child's family in a safe and appropriate home. 10 O.S. § 7004-1.1 prohibits a child adjudicated deprived from being placed in an institution. The least to the most restrictive placements are:

(1) kinship home, which includes:
(A) relative home; and
(B) close family relationship;
(2) regular foster home;
(3) therapeutic foster home; and
(4) group home or residential child care facility.

(j) **Close proximity.** Placements are made consistent with the needs of the child in the nearest geographic proximity to the child's own home.

(1) Exceptions may be made when the child's needs and safety cannot be met in a placement closer to the child's own home.
(2) Arrangements for transportation are made to ensure regular family visits.

SUBCHAPTER 13. OTHER CHILD WELFARE SERVICES AND MEDICAL SERVICES FOR CHILDREN IN OUT-OF-HOME CARE

PART 1. ELIGIBILITY FOR SUBSTITUTE CARE SERVICES AND CLAIMS FOR PAYMENT

340:75-13-9. Birth verification

~~Immediately upon a child's placement~~ No later than 15 days after the filing of a petition and order placing a child in ~~DHS legal~~ custody~~,~~ of Oklahoma Department of Human Services (OKDHS) the Child Welfare (CW) worker requests a certified copy of the child's birth certificate ~~is requested~~. ~~When~~ Upon receipt, the CW worker files the certificate ~~is received, it is filed~~ in the paper case record. ~~It remains there until~~ If a certified copy of the ~~child leaves DHS care, and it is given to the child or caretaker. Anytime the original~~ birth certificate is needed~~, it is given to~~ by the youth or ~~caretaker~~ caregiver the original is provided and ~~a~~ the copy ~~is~~ retained ~~in the same case record~~. Upon the child's discharge from OKDHS custody, if the original birth certificate remains in the paper case record, the original is given to the youth.

PART 2. TITLE IV-E ELIGIBILITY AND REIMBURSABILITY

340:75-13-13. IV-E eligibility criteria

Both criteria in (1) and (2) must be met for a child to be determined eligible for Title IV-E (IV-E).

(1) **Legal status.** The removal or placement of the child is the result of a:
(A) court order, made on a case-by-case basis, documenting:
(i) continuation in the home is contrary to the child's welfare, or that the placement is in the child's best interests, or language to that effect, per OAC 340:75-3-10.1.
(I) This determination must be made in the first court order that sanctions the child's removal from the home.
(II) Failure to include this finding in the first court order results in a determination of ineligibility for IV-E foster care reimbursement for the duration of the child's stay in out-of-home care; and
(ii) prior to the placement of the child in out-of-home care, reasonable efforts were made to prevent the removal from the home, or reasonable efforts were not required due to an emergency, per OAC 340:75-1-18.4.
(I) The determination must be made no later than 60 days from the date of the child's removal from the home.
(II) Failure to include this finding within 60 days of the child's removal results in a determination of ineligibility for the duration of the child's stay in out-of-home care; or
(B) voluntary consent with a signed written agreement between Oklahoma Department of Human Services (OKDHS) or a tribe and the parent(s) or legal guardian of the child that is binding on the parties to the agreement and specifies the legal status of the child, the rights and obligations of the parent(s) or legal guardian, and the rights and responsibilities of OKDHS or the tribe. A court order with required IV-E findings and custody to OKDHS or the tribe is necessary when the child is in out-of-home care more than 90 days, per OAC 340:75-4-12.1.

(2) **Relationship to AFDC.** In the initial month of IV-E eligibility consideration, the child must have been

categorically related to the Aid to Families with Dependent Children (AFDC) program using the AFDC rules in effect as of July 16, 1996, per DHS:10-1. To qualify for IV-E, a child must be ~~either~~:

(A) physically and legally removed from the parent(s); or

(B) constructively ~~legally~~ removed from the parent(s) ~~while residing with a~~ or specified relative, per DHS:10-1-21, regardless whether the child was physically moved from the ~~specified relative's~~ current relative or non-relative caregiver's home. The child must have been living with the parent(s) or specified relative and AFDC eligible in that home:

(i) in the month of the initiation of court proceedings; or

(ii) within six months of the initiation of court proceedings and would have been eligible in the month court proceedings were initiated if the child had still been living in that home~~.~~; and

(C) a citizen of the United States or having an alien status that qualifies for IV-E.

(3) **Resources.** Title IV-E, Section 472 of the Social Security Act allows a resource value of $10,000 for Title IV-E eligibility.

340:75-13-15. Initial eligibility determination

Within 15 working days of receipt of ~~Form CWS-KIDS-4, Eligibility Determination~~ the initial court order, the custody specialist makes an initial eligibility determination for Title IV-E and reports the IV-E eligibility determination to the referring Child Welfare worker.

SUBCHAPTER 15. ADOPTIONS

PART 2. LEGAL BASE AND SCOPE OF THE ADOPTION PROGRAM

340:75-15-5. Legal base

(a) **Legal base.**

(1) The Oklahoma Adoption Code, Chapter 75, Section 7501-1.1 et seq. of Title 10 of the Oklahoma Statutes, sets forth the provisions for the adoption of children and the legal actions necessary for adoptions. Adoption services are provided to birth parents, children, and adoptive families to establish and maintain suitable, stable, permanent homes for children ~~which~~ that maximally meet the child's developmental needs.

(2) Sections 7510-1.1 through 7510-3.3 and Public Law 96-272 require that the Oklahoma Department of Human Services (OKDHS) administer an adoption assistance program to assist with the adoptive placement and maintenance of children with special needs in adoptive homes.

(3) Section 7508-1.2 requires OKDHS to establish and administer a Mutual Consent Voluntary Registry whereby an eligible person who was separated from birth family members through adoption or termination of parental rights may indicate a willingness to have his or her identity and whereabouts disclosed to birth family members.

(4) Section 7508-1.3 requires OKDHS to establish and administer a Confidential Intermediary Search program whereby the services of a confidential intermediary who has been certified through OKDHS may be used by eligible persons to locate an eligible adult biological relative(s) with whom contact has been lost through adoption or termination of parental rights proceedings.

(5) Sections 7506-1.1 through 7506-1.2 require OKDHS to establish and administer a Centralized Paternity Registry (CPR) in order to protect the parental rights of a putative father who may wish to affirmatively assume responsibility for a child(ren) he may have fathered. CPR also expedites adoptions of children whose biological fathers are unwilling to assume responsibility for their children by registering with the registry or otherwise acknowledging their children.

(6) The Adoption and Safe Families Act (ASFA) [Public Law 105-89] mandates that OKDHS place legally free children in adoptive homes when that is the case plan goal, provide for the interjurisdictional placement of children, and provide post adoption services as a component of the family preservation services.

(7) The Multiethnic Placement Act of 1994 (MEPA) as amended by the Interethnic Adoption Provisions of 1996 (IEP), is designed to eliminate discrimination on the basis of race, color, or national origin of the child or the prospective foster or adoptive parent(s); to decrease the length of time that children wait to be adopted; and to facilitate the identification, recruitment, and retention of foster and adoptive parents who can meet the distinctive needs of children awaiting placement. MEPA/IEP prohibits states or agencies that receive federal funds from delaying or denying the placement of any child on the basis of the race, color, or national origin of the child or the prospective foster or adoptive parent(s).

(A) **Placement considerations.** Any decision to consider the use of race as a necessary element of a placement decision must be based on concerns arising out of the circumstances of the individual case and based on the best interests of the child. Only the most compelling reasons may serve to justify consideration of race and ethnicity as part of a placement decision. Such reasons are likely to emerge only in unique and individual circumstances. Accordingly, occasions where race or ethnicity lawfully may be considered in a placement decision are very rare. Children who meet the definition of an Indian child in accordance with the Indian Child ~~Welare~~ Welfare Act (ICWA) [25 U.S.C. Section 1903(4)] are placed according to the placement preferences found in ICWA. MEPA/IEP does not prohibit a preference for placing a child with relatives.

(B) **Recruitment efforts.** As part of MEPA/IEP, efforts to recruit resource families must reflect the

ethnic and cultural diversity of children in Oklahoma who need foster and adoptive homes. A comprehensive recruitment plan is developed and updated annually by the area adoption supervisor.

(b) **Scope.** Each child with a case plan goal of adoption is referred for adoption services, which includes identification of an appropriate adoptive home, preparation of the child for adoptive placement, and supportive services to the child and adoptive family. OKDHS also provides services designed to recruit and develop adoptive homes. Due to the life experiences and backgrounds of the children available for adoption through OKDHS, services in all components of adoption are child focused.

PART 6. ADOPTION PROCESS

340:75-15-41. Adoptive placement criteria staffing

The adoption process is a team effort that includes the adoption specialist and supervisor, adoption transition specialist and supervisor, Child Welfare (CW) worker and supervisor, and service providers.

(1) **Criteria staffing.** Within 30 calendar days of the initial adoption consultation, 04AN020E, Adoptive Placement Criteria Staffing, is completed on any child with the goal of adoption to assist in determining the type of placement that best meets the child's needs and to ensure that every effort is made to place with family. The assessment may identify a prospective adoptive parent(s)' ability to meet the child's needs and addresses the legal status and any legal barriers to adoption.

(2) **Placement assessment.** Completion of the adoptive placement criteria staffing is not approval for adoptive placement. A child for whom there is no resource identified is referred to statewide adoption staffing. Form 04AN020E is completed for the child on all interested, prospective caregivers. Factors considered when identifying the placement that best meets the child's needs are described in (A) through (K).

(A) **Siblings.** Siblings are placed together when possible. Siblings are separated in adoptive placement only in certain circumstances, in accordance with OAC 340:75-6-85.2 and 340:75-15-43.

(B) **Attachment.** The attachment of the child to the siblings, foster family, and significant others is assessed and used as an indicator of the child's ability to attach to an adoptive family.

(C) **Age.** Age is evaluated in relation to the applicant's ability to parent the child into adult years.

(D) **Health.** The health records of the prospective adoptive applicant must indicate the applicant has the health to participate with the child in normal developmental activities and parent the child into adult years.

(E) **Culture.** Oklahoma Department of Human Services (OKDHS) does not rely on generalizations about the identity needs of children of a particular race or ethnicity. OKDHS does not presume from the race or ethnicity of the prospective adoptive applicant that he or she would be unable to maintain the child's ties to another racial, ethnic, or cultural community.

(F) **Adoption of an Indian child.** The child who meets the definition of an Indian child under the federal and state Indian Child Welfare Act (ICWA), Section 1901 of Title 25 of the United States Code and Section 40 et seq. of Title 10 of the Oklahoma Statutes, must be placed according to the placement preferences per OAC 340:75-19-23. Prior to placing an Indian child in a non-extended family or non-Indian family, the child's CW worker must request that the court of adjudication conduct a good cause hearing. ICWA requires that:

(i) a good cause hearing is set;

(ii) prior notice is given to all parties, including the tribe; and

(iii) the court make a finding that good cause exists to not follow the placement preferences of ICWA.

(G) **Religion.** The child is provided an opportunity for spiritual and moral development. If the child has made a religious commitment or the parent(s) has made a specific request, OKDHS makes a reasonable effort to find an adoptive family of like faith.

(H) **Language.** If the child's primary language is other than English, special consideration is given to identifying an adoptive family fluent in the same language as the child, including sign language for a child who is hearing impaired.

(I) **Education.** The child is given the opportunity to develop his or her potential and will not be subjected to unrealistic academic expectations.

(J) **Geographic location.** The child is placed in a locality where the child and adoptive family are protected from identification and from undue interference by the birth family. When foster parents or relatives are considered as an adoptive family, this criterion is of special significance. An assessment is made to determine the adoptive parent(s)' ability to parent without undue interference.

(K) **Resources.** The adoptive family must have adequate resources to meet the child's financial, medical, health, educational, shelter, and emotional needs. Adoption assistance is a resource for the child who meets eligibility criteria, per OAC 340:75-15-128.

PART 8. ADOPTIVE PLACEMENT PROCESS

340:75-15-61. Interstate placements for adoption

The Interstate Compact on the Placement of Children (ICPC) is a means to ensure protection and services to children who are placed across state lines for adoption. The Oklahoma Department of Human Services contracts for the administration of adoption ICPC services. There is a $250 fee for processing independent and private agency adoptions which is paid directly to the contractor by the independent attorney or the private agency. The contracted Deputy Compact

Administrator (DCA) is authorized to conduct the necessary investigation of the proposed placement and ~~to determine~~ determines whether ~~or not~~ the placement is contrary to the child's interests. After the placement is approved by the contracted DCA, the contracted DCA ~~he or she~~ is responsible for overseeing the placement as long as it continues or until legalization of the adoption. This oversight does not include direct supervision of the placement but does include processing supervisory reports from the receiving state, facilitating communication between the states or parties involved, and notifying the agency or individual of an adoption disruption or legalization. [OAC 340:75-1-86]

PART 10. ADOPTIVE FAMILY ASSESSMENT AND PREPARATION PROCESS

340:75-15-84. Application process

(a) **Application to adopt.** The applicant is referred to the adoption specialist for the county in which the applicant lives. The adoption specialist responds promptly to prospective applicants. The applicant is invited to attend a group orientation meeting or an individual intake interview is scheduled upon request of the applicant. If the applicant chooses to apply, the adoption specialist provides an application packet. The adoption specialist discusses with the applicant information about the adoption program described in (1) through (10).

(1) The program is child focused. A family is selected who will best meet the child's long-term best interests and individual needs. Families inquiring about adopting a child of a certain age, race, or other characteristic OKDHS reasonably believes may not be available for adoption in the foreseeable future are advised their application will not be processed.

(2) The completed resource family assessment summary is the basis for selection.

(3) Oklahoma Department of Human Services (OKDHS) contracts with licensed child-placing agencies to complete resource family assessments.

(4) ~~There is no assurance that a child will be placed as a result of the application. This includes foster parents and relative applicants.~~ An application, including one by a foster parent or relative, does not guarantee placement of a child in the applicant's home.

(5) There is no fee for services provided by OKDHS to applicants who apply to adopt a child in the legal custody of OKDHS.

(6) A family is referred to licensed child-placing agencies if the family is interested in adopting a specific type of child that is not available through OKDHS.

(7) A criminal background and Child Abuse and Neglect Information System check is required and includes, but is not limited to:

(A) fingerprinting and a Federal Bureau of Investigation (FBI) check of each applicant and adult residing in the household ~~if he or she has lived in the state less than ten consecutive years~~;

(B) an Oklahoma State Bureau of Investigation (OSBI) check that includes Department of Public Safety check and Sex Offenders Registry check for each adult household member;

(C) a Child Abuse and Neglect Information System check and OKDHS records check for each adult household member;

(D) a search of all applicable out-of-state child abuse and neglect registries when an applicant or adult household member has not lived continuously in Oklahoma for the past five years;

(~~D~~E) an Oklahoma State Courts Network check at www.oscn.net;

(~~E~~F) an Oklahoma District Court Records check (ODCR) at www.odcr.com;

(~~F~~G) an offender information and offender lookup through Oklahoma Department of Corrections (DOC) at www.doc.state.ok.us;

(~~G~~H) a Juvenile Justice Information System (JOLTS) records check for each child in the family 13 years of age or older; and

(~~H~~I) a discharge from military duty, DD Form 214, Certificate of Release of Discharge From Active Duty, that is provided by the applicant.

(8) Verification of marriages, divorces, legal separations, or annulments, employment, and income are required.

(9) Applicants are required to complete 27 hours of pre-service training, including six hours of Behavior Crisis Management Training (BCMT), per OAC 340:75-7-14.

(10) Applicants are responsible for providing copies to OKDHS of any non-OKDHS assessments or evaluations, including previous adoptive, foster home, relative, divorce custody, or other custody assessments.

(11) OKDHS inquires whether the applicant has applied to be or ~~been~~ has been an approved foster or adoptive ~~home~~ parent in another state. OKDHS requests from all applicable states ~~that apply~~, any history of child abuse or neglect or criminal history from the appropriate state agency.

(b) **Application to adopt by OKDHS employees.** OKDHS employees may apply to adopt from OKDHS, though no preferential treatment is given.

(c) **Reapplication to adopt.** When previous adoptive parents apply to adopt again, the adoption application information is updated.

(d) **Denial or withdrawal of applications.** When it becomes apparent that the applicant does not meet the resource family requirements set out in Form 04AF002E, Guidelines for Resource Family Assessment, the resource family assessment process may be discontinued and the application withdrawn or denied.

(1) The reasons for discontinuing the assessment prior to completion, per OAC 340:75-15-88, are explained to the applicant in person when possible and are stated in a letter to the applicant regardless whether personal contact is made.

(2) The applicant may voluntarily withdraw the application. If the applicant declines to withdraw the application, local staff denies the application.

(3) Families desiring to adopt a child of a certain age, race, or other characteristic OKDHS reasonably believes may not be available for adoption in the foreseeable future are referred to licensed child-placing agencies that are more likely to place children matching ~~this~~ the request.

(e) **Out-of-state adoptive applicants.** OKDHS does not process applications from adoptive applicants outside of Oklahoma, but accepts certified resource family studies or assessments from a licensed agency or the public agency in another state.

(1) In cooperation with a licensed adoption agency in another state, an adoptive family may be considered for a child in Oklahoma.

(2) Children and Family Services Division Adoption Services Section coordinates placement and supervision with an agency in the state where the adoptive family resides.

(3) All provisions of the Interstate Compact on the Placement of Children are followed, per OAC 340:75-15-61 and 340:75-15-82.

340:75-15-87. Assessment and preparation process

(a) **Assessment.** The assessment process is a tool for Oklahoma Department of Human Services (OKDHS) to assist the family in determining the family's ability to parent a child with special needs. The family is provided basic background information required to understand the adoption process, laws, and types of parenting issues faced by parents who adopt children with special needs. All services provided to the family in preparation for placement are designed to increase the family's ability to problem solve, access help, and cope with parenting a child with a unique history and needs.

(b) **Joint approval of foster and adoptive families.** OKDHS ~~may~~ jointly ~~approve~~ approves Child Welfare (CW) foster homes ~~that are also approved~~ as adoptive homes~~. Before the home may be approved as a CW foster home and an adoptive home,~~ when the home ~~must meet~~ meets eligibility standards of both programs, per OAC 340:75-7-19. The differences in the goals of the two programs are explained to the family. The family is advised that children in foster care are not moved in order to place an adoptive child in the home. All children in the home, including children in foster care placement, are considered in making placement decisions regarding an adoptive placement.

(c) **Interviews with applicants.** Individual and joint interviews are held with each family and household member with a minimum of two home visits on separate days. Information regarding the current family structure, family history, and social support is gathered through the interviews.

(d) **Reference information.** Signed Form 04AF001E, Resource Family Assessment Application, grants OKDHS permission to contact the listed references. Forms are mailed to appropriate references and in-person or telephone contact is made with each personal reference.

(e) **Health and age.** Form 04AF008E, Medical Examination Report, or other medical examination report by a doctor for each household member must be submitted before the assessment is complete. An application to adopt a specific child elicits information to assess the adoptive applicant's ability to provide care for the child into adult years, given the applicant's health history and age.

(f) **Background checks.**

(1) **Authorization.** Section 7505-5.3 of Title 10 of the Oklahoma Statutes mandates a criminal background check and Child Abuse and Neglect Information System check for all public agency and private adoptive parent applicants and all other household members 18 years and older. The background check includes a search of:

(A) Oklahoma Department of Public Safety records;

(B) Oklahoma State Bureau of Investigation (OSBI) records;

(C) Federal Bureau of Investigations (FBI) national criminal history records search;

(D) Department of Corrections (DOC) files maintained pursuant to the Sex Offenders Registration Act;

(E) Oklahoma State Courts Network (OSCN);

(F) Oklahoma District Court Records (ODCR); ~~and~~

(G) Child Abuse and Neglect Information System; and

(H) all applicable out-of-state child abuse and neglect registries when an applicant or adult household member has not lived continuously in Oklahoma for the past five years. If no registry is maintained in the applicable state, the adoption specialist requests any information that can be provided. The prospective adoptive parent is not approved without the results of the state-maintained child abuse and neglect registry check if a registry is maintained in the applicable state.

(2) **Fingerprint search.** A national criminal history records search based upon submission of fingerprints is required for adoptive applicants and other household members 18 years and older ~~who have not lived continuously in Oklahoma for the past ten years~~.

(A) When a fingerprint search has been done in the past five years and is available for review by the person conducting the adoptive home study, then only an OSBI criminal background check is required.

(B) A home study is not initiated if any applicant or adult household member refuses to submit the forms granting permission for the background check.

(i) All adult household members age 18 and older complete and sign Form 04AD003E, Request for Background Check, and submit fingerprint cards authorizing OKDHS to conduct a records check.

(ii) Background information is considered in making a final recommendation. Information that reveals a risk to the child is used in denying the application, per OAC 340:75-15-88.

(3) **Fingerprinting charges.** Once an applicant receives fingerprint cards, law enforcement or a private fingerprinting company may fingerprint the applicant. There is no charge to OKDHS applicants. Non-OKDHS adoptive applicants are responsible for any charges incurred for this service.

(4) **Obtaining fingerprinting services.** Law enforcement is not mandated to provide the fingerprinting service. Local law enforcement is contacted to ascertain their willingness and availability to provide this service and the cost per person.

(5) **Time frames.** If the fingerprinting is not done correctly, the cards are rejected by either the OSBI or Federal Bureau of Investigation (FBI). The applicant must be reprinted when this occurs. If the fingerprint cards are found unacceptable the second time, the applicant must pay the fee to be re-fingerprinted and non-OKDHS applicants must pay the search fee. The estimated time frame to receive all results from the OSBI and FBI is approximately eight weeks.

(6) **Exception to fingerprinting.** The Director of OKDHS or designee may authorize an exception to the fingerprinting requirement, and authorize use of an alternative procedure for obtaining a national criminal records check for any adult residing in the home who has a severe condition that precludes such person being fingerprinted. The alternative procedure may be used in limited, and case-specific circumstances when OKDHS may not be able to:

(A) obtain an individual's fingerprints as a result of the individual's disability; or

(B) obtain legible fingerprints due to low quality fingerprints, as a result of age, occupation or otherwise, thereby making it impossible for the national crime information databases (NCID) to provide the results.

(g) **Marriage history.** The applicant provides copies of present marriage license and any divorce decrees, legal separations, and annulments, if applicable. Documentation of the validity of the present marriage is necessary to determine eligibility to adopt and protect the legal status of the prospective adoptive child. If there is a child from a previous marriage, the child's role in the family is discussed and child support is documented.

(h) **Financial statement.** The applicant completes Form 04AF010E, Resource Family Financial Assessment, and provides documentation of employment and income. Management of resources is more important than the family's income and is addressed in the assessment summary.

(i) **Photographs.** Recent photographs of the applicant are provided as part of the final assessment summary.

(j) **Pre-service training.** Each adoptive applicant must complete a prescribed course of pre-service training consisting of approximately 27 hours of instruction designed to assist the applicant in evaluating the strengths, needs, and challenges in parenting a child with special needs, per OAC 340:75-7-14.

PART 14. POST ADOPTION SERVICES

340:75-15-128.2. Eligibility requirements for Title IV-E adoption assistance

(a) **The child.** The requirements for a child to be eligible for Title IV-E adoption assistance are outlined in this subsection. The child is:

(1) ~~The child is~~ Aid to Families with Dependent Children (AFDC) eligible at the time of removal;

(2) Title IV-E eligible as defined in OAC 340:75-13-13; ~~and meets the definition of~~

(3) determined to be a child with special needs prior to the finalization of the adoption~~.~~;

~~(A) This eligibility requirement includes a determination on the method of removal from the child's home. If the child was removed from the home pursuant to a:~~

~~(i) judicial removal, such determination must be made in the first hearing that sanctions the removal and must indicate that it was contrary to the child's welfare to remain in the home;~~

~~(ii) voluntary relinquishment, the relinquishment may be considered a judicial removal only if the child is voluntarily relinquished to the Oklahoma Department of Human Services (OKDHS), a tribe with whom OKDHS has a Title IV-E agreement, or a private, nonprofit agency, and there is a petition to the court to remove the child from the home within six months of the time the child lived with a specified relative, and there is a subsequent judicial determination to the effect that remaining in the home would be contrary to the child's welfare; or~~

~~(iii) voluntary placement agreement, the child must have actually received Title IV-E foster care payments, and OKDHS or a tribe with whom OKDHS has a Title IV-E agreement must have responsibility for placement and care of the child in order for the child to be eligible for Title IV-E adoption assistance.~~

~~(B) The child must meet the AFDC eligibility criteria at the time of removal.~~

~~(C) The special needs determination must be made prior to the finalization of the adoption.~~

(~~2~~4) ~~The child is~~ eligible for Supplemental Security Income (SSI) benefits at the time the adoption petition is filed and meets the definition of a child with special needs prior to finalization of the adoption. How the child was removed from his or her home or whether the state has responsibility for the child's placement and care is not considered~~.~~;

(~~3~~5) ~~The child is~~ eligible as a child of a minor parent and meets the definition of a child with special needs.

(A) This eligibility requirement is met if:

(i) the child's parent is in foster care and receiving Title IV-E foster care maintenance payments that cover both the minor parent and the child at the time the adoption petition is initiated; and

(ii) the special needs determination is made prior to finalization of the adoption.

(B) There is no requirement that the child must have been removed from home as a result of a judicial determination or pursuant to a voluntary placement agreement.

(C) If the child and minor parent have been separated in foster care prior to the time of the adoption petition, the child's eligibility for Title IV-E adoption assistance must be determined based on the child's current and individual circumstances~~.~~; and

(~~4~~6) ~~The child is~~ eligible due to prior Title IV-E adoption assistance eligibility and meets the definition of a child with special needs.

(A) When a child is adopted and receives Title IV-E adoption assistance, but the adoption later dissolves or all of the child's adoptive parents are dead, the child may continue eligibility for Title IV-E adoption assistance in a subsequent adoption.

(B) The manner of a child's removal from the adoptive home is not considered.

(b) **The adoptive family.** There is no means test for the prospective adoptive parent(s) to determine eligibility for adoption assistance. A prospective adoptive parent is not eligible for Title IV-E adoption assistance if the person has a felony conviction:

(1) at any time for child abuse or neglect; spousal abuse; crimes against children, including child pornography; or crimes involving violence, including rape, sexual assault, or homicide; or

(2) in the past five years for physical assault, battery, or a drug related offense.

[OAR Docket #08-534; filed 3-31-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES DIVISION

[OAR Docket #08-533]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Administration
Part 1. General Administration
340:100-3-1 [AMENDED]
340:100-3-6 [AMENDED]
340:100-3-15 [AMENDED]
Part 3. Operations
340:100-3-27 [AMENDED]
340:100-3-27.5 [AMENDED]
340:100-3-28 [AMENDED]
340:100-3-38 through 340:100-3-38.8 [AMENDED]
340:100-3-38.12 [AMENDED]
340:100-3-38.13 [NEW]
340:100-3-40 through 340:100-3-40.1 [AMENDED]
Subchapter 5. Client Services
Part 3. Service Provisions
340:100-5-20 [REVOKED]
340:100-5-22.1 [AMENDED]
340:100-5-26 through 340:100-5-26.1 [AMENDED]
340:100-5-29 [AMENDED]
340:100-5-32 through 340:100-5-33 [AMENDED]
Part 5. Individual Planning
340:100-5-51 [AMENDED]
340:100-5-53 [AMENDED]
340:100-5-57 through 340:100-5-57.1 [AMENDED]
Subchapter 13. Family Support Programs
340:100-13-1 [AMENDED]
Subchapter 17. Employment Services
Part 3. State-Funded Employment (Sheltered Workshop) Services
340:100-17-17 [AMENDED]
Part 4. Community Integrated Employment Services
340:100-17-25 [AMENDED]
(Reference WF 07-23)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and, in part, Section 1408 of Title 10 of the Oklahoma Statutes (10 O.S. § 1408); 56 O.S. § 601 et seq.; 56 O.S. § 1020; 70 O.S. § 13-121 et seq.; and 74 O.S. § 840-3.1; and federal acts, including Individuals with Disabilities Education Act (IDEA).
DATES:
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N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The proposed revisions to Subchapters 3, 5, 13, and 17 of Chapter 100 amend the rules to (1) reflect current Oklahoma Department of Human Services (OKDHS) forms numbering scheme; (2) clarify eligibility criteria for state-funded services through Developmental Disabilities Services Division (DDSD); (3) reflect the current role and function of each Human Rights Committee (HRC); (4) clarify DDSD case management visits with the service recipient and possible locations for visits; (5) clarify eligibility criteria for SoonerStart; (6) delineate DDSD audit requirements for provider agencies; (7) clarify required training courses; (8) allow for the reduction of annual training hours for contract staff; (9) specify time frames for first aid and cardio-pulmonary resuscitation (CPR) certification and behavior support courses; (10) specify training requirements for staff providing supports in alternative group homes; (11) reflect general requirements for community records; (12) clearly denote the role of DDSD staff and community staff when monitoring service recipients who are at risk for dyskinesia; (13) specify current Family Support Assistance Payment Program application and annual review processes; (14) specify community integrated employment (CIE) services available to service recipients 16 years of age or older who meet eligibility criteria; and (15) update terminology and policy references.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, OKDHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

DUE TO EXCESSIVE LENGTH OF THESE RULES (AS DEFINED IN OAC 655:10-7-12), THE FULL TEXT OF THESE RULES WILL NOT BE PUBLISHED. THE RULES ARE AVAILABLE FOR PUBLIC

INSPECTION AT THE DEPARTMENT OF HUMAN SERVICES, SEQUOYAH BUILDING, OKLAHOMA CITY AND AT THE SECRETARY OF STATE'S OFFICE OF ADMINISTRATIVE RULES. THE FOLLOWING SUMMARY HAS BEEN PREPARED PURSUANT TO 75 O.S., SECTION 255(B):

340:100-3-1 is amended to clarify eligibility criteria for state-funded services through DDSD.

340:100-3-6 is amended to reflect the current role and function of each HRC, including HRC for a provider agency and public intermediate care facility for persons with mental retardation (ICF/MR).

340:100-3-15 is amended to reflect current criteria used to establish eligibility for SoonerStart for a child younger than three years of age.

340:100-3-27 is amended to: (1) clarify DDSD case management visits with the service recipient and possible locations for visits; and (2) specify current number references to OKDHS forms and publications.

340:100-3-27.5 is amended to clarify audit requirements for each agency receiving $50,000 or more per fiscal year for the delivery of supports funded through OKDHS or Home and Community-Based Services (HCBS) Waivers.

340:100-3-28, 100-3-38.12, 100-3-40.1, 100-5-22.1, 100-5-26.1, 100-5-32, 100-5-33, 100-5-53, 100-5-57, 100-5-57.1, and 100-17-17 are amended to reference current OKDHS forms numbers.

340:100-3-38, 100-3-38.1, 100-3-38.2, 100-3-38.3, 100-3-38.5, and 100-3-38.6 are amended to: (1) clarify required training courses; (2) allow for the reduction of annual training hours for contract staff; and (3) specify time frames for first aid and CPR certification and behavior support courses.

340:100-3-38.4 is amended to specify: (1) initial training, first aid and CPR certification, and medication administration training must be completed prior to the contractual agreement with Oklahoma Health Care Authority (OHCA); and (2) reduction of annual training hours for specialized foster care (SFC) providers.

340:100-3-38.7 is amended to specify the program coordinator must complete specialized training when providing fill-in direct support services.

340:100-3-38.8 is amended to specify job-specific training for staff assuming employment services programs manager duties.

340:100-3-38.13 is issued to provide training requirements for staff providing supports to service recipients residing in alternative group homes.

340:100-3-40 is amended to reflect general requirements for community records, excluding records maintained by the DDSD case manager. DDSD case manager records are kept in accordance with 340:100-5-15.

340:100-5-20 is revoked as current information regarding respite services is referenced in other sections of policy.

340:100-5-26 is amended to reference current OKDHS form numbers and delete information inherent to usage of Forms 06HM005E, Referral Form for Examination or Treatment, and 06HM007E, Physical Status Review.

340:100-5-29 is amended to more clearly denote the role of DDSD staff and community staff when monitoring service recipients who are at risk for dyskinesia.

340:100-5-51 is amended to reference individual planning for service recipients receiving services through the Homeward Bound Waiver.

340:100-13-1 is amended to reference current OKDHS form numbers and specify current Family Support Assistance Payment Program application and annual review processes.

340:100-17-25 is amended to specify CIE services are available to service recipients 16 years of age or older who meet eligibility criteria, including those 16 to 21 years of age who have not completed eligibility for services through Individuals with Disabilities Education Act (IDEA).

[OAR Docket #08-533; filed 3-31-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 115. ~~OFFICE OF~~ FIELD OPERATIONS DIVISION

[OAR Docket #08-468]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
Part 1. General Provisions
340:115-1-1 [AMENDED]
340:115-1-3 [AMENDED]
340:115-1-4 through 340:115-1-6 [REVOKED]
Part 3. Voter Registration
340:115-1-21 through 340:115-1-22 [AMENDED]
340:115-1-23 [REVOKED]
340:115-1-24 [AMENDED]
340:115-1-25 through 340:115-1-26 [REVOKED]
340:115-1-27 [AMENDED]
Subchapter 3. Administrative Responsibilities [REVOKED]
340:115-3-2 through 340:115-3-3 [REVOKED]
Subchapter 5. Acquired Immune Deficiency Syndrome (AIDS) Coordination and Information Services (ACIS)
340:115-5-1 [AMENDED]
340:115-5-2 [REVOKED]
340:115-5-3 [AMENDED]
(Reference APA WF 07-25)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and National Voter Registration Act of 1993 [Public Law 103-31].
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ANALYSIS:
Revisions to Subchapters 1, 3 and 5 of Chapter 115 amend the rules to: (1) reflect current terms used throughout Field Operations Division (FOD) rules; (2) reflect current practices and procedures for Oklahoma voter registration; (3) reflect current practices and procedures of Acquired Immune Deficiency Syndrome (AIDS) Coordination and Information Services (ACIS); (4) include school-based services as a program administrated by the Field Operations Division (FOD); and (5) revoke language that is provided through other rule cites.
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2008:

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. GENERAL PROVISIONS

340:115-1-1. Purpose

The purpose of the ~~Office of~~ Field Operations Division (FOD) is to provide the overall administration and resource management for service delivery to individuals and families throughout the state.

340:115-1-3. Structure of the ~~Office of~~ Field Operations Division ~~(OFO)~~

(a) **Structure.** ~~OFO~~ The Field Operations Division (FOD) is comprised of:

(1) ~~OFO state office~~ FOD State Office staff;

(2) six area offices; and

(3) all ~~county offices~~ human services centers.

(b) **Function.** The primary function of ~~OFO~~ FOD is to ensure local service delivery for the programs for which it is administratively responsible.

(1) **Service delivery.** For purposes of service administration, ~~DHS~~ the Oklahoma Department of Human Services (OKDHS) has divided the state into geographic areas. There is an area director assigned to each area. There is at least one ~~local office~~ human services (HSC) in each county. Metropolitan areas may have more than one ~~office~~ HSC. A county director is responsible for each ~~office~~ HSC and has line authority for FOD staff in that ~~office~~ HSC. The county director reports to the area director who reports to the ~~associate director for OFO~~ FOD director. Each area office has field liaisons who provide technical support to the area director and county directors. ~~OFO~~ FOD staff in ~~county offices administer~~ local HSCs administers:

(A) Family Support Services;

(B) Children and Family Services;

(C) Adult Protective Services;

(D) Acquired Immune Deficiency Syndrome (AIDS) Coordination and Information Services; ~~and~~

(E) Voter Registration~~.~~; and

(F) School-based Services.

(2) **Administration responsibilities.** ~~Responsibilities of OFO staff are given in (A) through (D) of this subsection.~~

(A) **State ~~office~~ Office.** ~~OFO state office~~ FOD State Office staff ~~are~~ is responsible for ensuring all components of local ~~offices~~ HSCs function smoothly as they facilitate the delivery of OKDHS programs and services.

(B) **~~Associate~~ FOD director.** The ~~associate director for OFO~~ FOD director:

(i) directs the implementation of ~~Agency~~ OKDHS programs through the area directors~~. The associate director~~;

(ii) acquires, administers, and allocates resources to support ~~office~~ HSC activities; and

(iii) provides the OKDHS Director with analyses of budget, personnel, and other resources needed to support operations of ~~DHS offices~~ OKDHS HSCs.

(C) **Area directors.** Area directors:

(i) provide supervision, support, and leadership to county directors and area staff~~. Area directors~~;

(ii) advocate for the field ~~and~~;

(iii) ensure resources are distributed equitably among local ~~offices. They~~ HSCs; and

(iv) are responsible for program direction to ensure programs are operated in accordance with rules and client outcomes are achieved.

(D) **County directors.** County directors ~~have responsibility and~~ are:

(i) responsible and have authority for the function and operation of the county ~~office~~ HSC. ~~County directors have administrative accountability of other program staff including coordination of management activities and problem resolution. Primary responsibilities~~ Responsibilities include:

(~~i~~I) advocating for staff and clients;

(~~ii~~II) coordinating all personnel activities;

(~~iii~~III) supervising, directing, and training of all programs;

(~~iv~~IV) developing and maintaining positive and productive relationships with all levels of OKDHS personnel and the community; and

(~~v~~V) developing and maintaining resources and procedures to ensure a smooth flow of activities in a safe environment~~.~~; and

(ii) administratively accountable for other program staff including coordination of management activities and problem resolution.

340:115-1-4. County office operations [REVOKED]

~~County directors and other Office of Field Operations (OFO) staff are responsible for resource development and mobilization to fill service gaps and increase client service and family self-sufficiency at the local level. County directors and other OFO staff participate in community service councils or other organizations to help meet client and family needs and eliminate service delivery confusion and duplication with other agencies and organizations in the community. County directors are the chief DHS spokespersons in the county and, as such, are responsible for achieving and maintaining a good public relations image for the Department of Human Services and all of its programs. County directors regularly make presentations to service organizations and community groups regarding DHS programs and develop and maintain open and clear communication with local media. News releases and public service announcements are made by or through the county director in each county and they respond to requests for public information made by the media, legislators, other agencies, or citizens.~~

340:115-1-5. Client advocacy [REVOKED]

~~The client is the focal point of all DHS services at the county level. Due to the large number of programs administered by DHS in the county, it is possible for clients to be overwhelmed and confused when applying for services. County directors are responsible for ensuring clients receive services for which they are eligible and are treated with fairness and respect. County directors ensure client complaints are addressed and resolved.~~

340:115-1-6. Non-discrimination [REVOKED]

~~County directors ensure county policies and activities are non-discriminatory. They have specific responsibilities related to non-discrimination of DHS programs including posting non-discrimination posters, training staff, reporting allegations, and monitoring compliance.~~

PART 3. VOTER REGISTRATION

340:115-1-21. Purpose

The purpose of this Part is to provide rules for voter registration as ~~effective January 1, 1995,~~ the Oklahoma Department of Human Services is a designated voter registration agency.

340:115-1-22. Legal authority

The National Voter Registration Act of 1993 [Public Law 103-31] requires state agencies that provide public assistance such as ~~the Medical Assistance Program~~ SoonerCare (Medicaid), Temporary Assistance for Needy Families, Food Stamp Program, or state-funded programs primarily engaged in providing services to persons with disabilities to offer voter registration services. ~~The legal authority is Public Law 103 and Senate Bill 770 of 1994.~~

340:115-1-23. Voter registration services [REVOKED]

~~(a) Services offered by DHS offices include:~~

~~(1) distributing the Oklahoma Voter Registration Application Form and the Oklahoma Voter Registration Statement;~~

~~(2) accepting completed Oklahoma Voter Registration Application Forms for transmittal to the State Election Board; and~~

~~(3) storing Oklahoma Voter Registration Statements.~~

~~(b) DHS employees are prohibited from:~~

~~(1) seeking to influence an individual's political preference or party registration;~~

~~(2) displaying any political preference or party allegiance;~~

~~(3) making any statement to an individual or taking any action to discourage the individual from registering to vote; and~~

~~(4) making any statement or taking any action that leaves the impression that an individual's decision whether to register has any bearing on the availability of program services or benefits.~~

340:115-1-24. Forms used in providing voter registration services

(a) With every application, reapplication, recertification for benefits, or any time a change of address is reported, local ~~offices must provide~~ human services center (HSC) staff provides the applicant or recipient with the Oklahoma Voter Registration Statement and the Oklahoma Voter Registration Application ~~Form~~. All voter registration materials are kept confidential.

(1) **Oklahoma Voter Registration Statement.** ~~The Oklahoma Voter Registration Statement contains boxes for the client to indicate whether or not he or she wishes to register to vote. The client~~ When an applicant or recipient:

(A) chooses to register to vote, the person must sign and return the Oklahoma Voter Registration Statement to the local ~~office.~~ HSC; or

(B) ~~These forms must be retained by the Agency for 24 months. If the client~~ does not ~~check either box on the form~~ complete the Oklahoma Voter Registration Statement, it is presumed the ~~client~~ person does not wish to register. ~~Failure by the Agency to retain the Oklahoma Voter Registration Statements may result in penalties or litigation.~~

(2) **Oklahoma Voter Registration Application ~~Form~~.**

(A) ~~If the client checks the box on the~~ When an applicant or recipient submits a Oklahoma Voter Registration Statement indicating that he or she wishes to register to vote, the ~~client must be~~ person is provided ~~with the~~ an Oklahoma Voter Registration Application ~~Form~~.

(B) The ~~local office must offer~~ HSC staff offers the same degree of assistance in completing the Oklahoma Voter Registration Application ~~Form~~ as it offers in completing OKDHS application forms, unless the ~~client~~ person refuses such assistance. ~~Completed Oklahoma Voter Registration Application Forms must be transmitted to the State Election Board as indicated in OAC 340:115-1-26.~~

(b) The State Election Board provides pre-addressed, postage-paid envelopes to Oklahoma Department of Human Services (OKDHS) for the transmittal of Oklahoma Voter Registration Application forms.

340:115-1-25. Confidentiality of voter registration forms [REVOKED]

~~All voter registration materials are kept confidential.~~

340:115-1-26. Transmittal deadlines for voter registration services [REVOKED]

~~(a) Oklahoma Voter Registration Application Forms are sent directly to the State Election Board at the close of business every Friday or the last working day of each week. This weekly mailing satisfies the transmittal time requirements.~~

~~(b) The State Election Board provides pre-addressed, postage-paid envelopes to DHS for the transmittal of Oklahoma Voter Registration Application Forms.~~

340:115-1-27. Criminal penalties

~~Anyone who knowingly and willfully intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce any person for registering to vote, or assisting anyone to vote, or for exercising his or her right under the law, or knowingly and willfully deprives, defrauds or attempts to deprive or defraud the State of Oklahoma of a fair and impartial election process may be fined or imprisoned not less than five years or both.~~

(a) The Oklahoma Department of Human Services (OKDHS) offers persons applying for and receiving benefits or services provided by OKDHS the opportunity to register to vote in compliance with the:

(1) National Voter Registration Act of 1993; and

(2) Procedure for Voter Registration issued by the Oklahoma Secretary of the State Election Board.

(b) Criminal penalties for improper voter registration are included in:

(1) Section 1973gg-10 of Title 42 of the United States Code (U.S.C.); and

(2) the cautions portion of the State Election Board's Procedure for Voter Registration.

SUBCHAPTER 3. ADMINISTRATIVE RESPONSIBILITIES [REVOKED]

340:115-3-2. Personnel functions [REVOKED]

~~(a) **Recruitment and hiring.** Office of Field Operations (OFO), in conjunction with the Human Resources Management Division (HRMD), is responsible for recruiting new employees for field positions. County directors are responsible for external recruitment and advertising for job applicants. County directors give a brief description of the position job duties and responsibilities, explaining the Department's benefits and compensation package, and completing necessary forms related to applicants for employment. County directors ensure applicants are advised of Oklahoma Merit System procedures and hiring processes, and for DHS compliance with equal employment opportunity and non-discrimination policy and procedures. OFO and HRMD process all requests to fill approved vacancies in the county. County directors complete and sign Form P-31, Position Requisition, and any other forms related to personnel transactions in the county office. County directors are the primary contact persons in the county regarding personnel issues and related documents.~~

~~(b) **Affirmative action.** County directors are the designated affirmative action officers and this responsibility cannot be delegated. County directors adhere to the policy and intent of the DHS Affirmative Action Plan by accepting responsibility for ensuring progress toward the goals and objectives of the Plan. County directors coordinate all activities with the Area Office and the Office for Civil Rights. County directors notify the Area Office when a problem regarding a hiring practice cannot be resolved. Minority outreach and recruitment is a part of affirmative action and county directors utilize all local service and civic groups to assist in the recruitment. County directors immediately report any discriminatory act or sexual harassment which is alleged by an employee to the Area Office and the Office for Civil Rights. County directors are not responsible for investigating complaints of discrimination. Investigation of discrimination complaints remains the responsibility of the Office for Civil Rights. County directors ensure:~~

~~(1) there is a good faith effort in meeting the goals established in the DHS Affirmative Action Plan;~~

~~(2) all personnel decisions including interviews, evaluations, and selections in all divisions are consistent with the DHS Affirmative Action Plan and state and federal regulations and laws; and~~

~~(3) all county office personnel are advised of affirmative action goals and issues. This includes providing appropriate training.~~

340:115-3-3. General office rules and procedures [REVOKED]

~~(a) **Scheduling and security of facility.** County directors ensure appropriate use, availability, and security of DHS facilities. After hours usage is confined to DHS business or activities of a public nature which are an appropriate use of public buildings.~~

~~(b) **Security of records.** County directors are the custodians of records and ensure their confidentiality and proper use. Legislation enacted to provide citizen access to public records does not apply to client records, and every precaution is taken to ensure the confidentiality of client information. County directors are alert to possible compromises of security and take actions to correct those situations.~~

~~(1) **Executive files.** The county director maintains case records for employees and their relatives in a secure file separate from the county record files.~~

~~(2) **Records eligible for destruction.** Records may not be destroyed without express permission from Archives and Records Commission. No records pertaining to legal dispute may be destroyed.~~

~~(c) **Security of equipment.** The county director is responsible for the security of all equipment in the office. Control methods are established by the county director to monitor assignment of small equipment such as pagers, cellular phones, and recorders.~~

SUBCHAPTER 5. ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND COORDINATION AND INFORMATION SERVICES (ACIS)

340:115-5-1. Acquired Immune Deficiency Syndrome (AIDS) Coordination and Information Services (ACIS)

~~Two points of~~ Acquired Immune Deficiency Syndrome (AIDS) Coordination and Information Services (ACIS) are case management services with an emphasis ~~are~~ to:

(1) coordinate, plan, and supervise development of services for persons with Human Immunodeficiency Virus (HIV) disease to ensure appropriate services are available; and

(2) ensure those services are provided through either direct service provision or brokering of services through information and referral services.

340:115-5-2. Acquired Immune Deficiency Syndrome (AIDS) coordination [REVOKED]

~~(a) **Services provision.** AIDS Coordination and Information Services (ACIS) staff coordinate the provision of services for persons with Human Immunodeficiency Virus (HIV) disease; they identify gaps in services and assist in the development of programs to serve these needs. Much of this is accomplished through assisting other state agencies and community based organizations in the development of grant applications to ensure service needs are met and duplication of services are avoided. The ACIS staff must maintain close communication with those directly affected by HIV disease and do so through membership on numerous local and statewide boards, committees, and task forces. Through this participation, staff is able to identify service and community intervention needs and assist appropriate local staff in the provision of these interventions.~~

~~(b) **AIDS case management.** As a part of the effort to provide services statewide for persons with HIV disease, case managers have been assigned multi-county responsibility, but are based in Oklahoma, Tulsa, and Comanche counties where the majority of HIV infected individuals are seeking services. Their function is to ensure those in need of HIV/AIDS related services are linked with the providers of those services. Much of their work involves information and referral services as well as intervention on behalf of their clients. DHS Form ACIS-4, Permission to Share Confidential Information, must be signed by the client specifying with whom confidential information may be shared prior to the release of any such information by the case manager. These case managers work closely with community groups to provide a continuum of services at the local level and often convene community groups and DHS staff to discuss and resolve complex service cases. Case managers are supervised by the county director and their work with HIV/AIDS is carefully monitored and supported by state office ACIS staff. There are no income or resource eligibility criteria for HIV/AIDS Case Management Services. Referrals are accepted from all sources within the community and state agencies.~~

340:115-5-3. Acquired Immune Deficiency Syndrome (AIDS) information services

(a) Acquired Immune Deficiency Syndrome (AIDS) Coordination and Information Services (ACIS) provide a central contact point for ~~staff,~~ persons with Human Immunodeficiency Virus (HIV) disease and their families, other state agencies, community organizations, ~~and~~ support groups, and Oklahoma Department of Human Services staff to gain information related to AIDS or HIV ~~infection/disease~~ infection or disease. The information disseminated may cover ~~HIV/AIDS~~ AIDS or HIV legal, social service, or health care issues; whether these services are available to persons with HIV disease and, if so, where they may be obtained. ~~ACIS serves as a resource on HIV/AIDS to program units within DHS as policies are developed relating to care of persons with HIV infection. Assistance to program staff in properly carrying out the Agency policies regarding HIV disease is provided through meetings and written directives. Staff of local county offices who have clients with HIV/AIDS contact the case manager serving their area of the state for consultation and direction on the provision of services to the clients to ensure the full range of available services is provided.~~

(b) There are no income or resource eligibility criteria for HIV/AIDS case management services. Referrals are accepted from all sources within the community.

(c) Form 09AI0043, Permission to Share Confidential Information, must be signed by the client specifying with whom confidential information may be shared prior to the release of any such information by the case manager.

[OAR Docket #08-468; filed 3-27-08]

TITLE 429. OKLAHOMA LOTTERY COMMISSION
CHAPTER 10. RETAILER PROVISIONS

[OAR Docket #08-603]

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RULES:
429:10-1-3 [AMENDED]
429:10-1-5 [AMENDED]
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Oklahoma Lottery Commission, Board of Trustees, 3A O.S., Section 710
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n/a

ANALYSIS:

The proposed rule amendments add a bonus payment to retailers for selling certain winning Powerball or Hot Lotto tickets. Payments range from $1,000 to $25,000. Payments will be made in a manner determined by the Lottery Commission and will be made regardless of whether the winning ticket is claimed by the winner. Payment of the bonus will provide additional incentives to retailers to increase sales and help maximize revenues to the State.

The second rule change allows the Lottery Commission to accept full inactive packs up to six (6) weeks after the official end date of an instant game and partial pack returns up to six (6) weeks after the termination, suspension, cancellation, revocation or non-renewal of the retailer's contract with the OLC. In both cases, the limit is currently three (3) weeks, which is too short a period to complete the task.

CONTACT PERSON:

Rollo Redburn, Administrative Rules Liaison, (405) 522-7700, Oklahoma Lottery Commission, 3817 N. Santa Fe, Oklahoma City, OK 73118-8508; or, Terri Jackson, Administrative Assistant, (405) 522-7700, Oklahoma Lottery Commission, 3817 N. Santa Fe, Oklahoma City, OK 73118-8508.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2008:

429:10-1-3. Retailer compensation

(a) Retailers will earn six-percent (6%) for each dollar of ticket sales plus three-quarters of one-percent (.75%) for each dollar of prizes $600.00 or less paid by the retailer.

(b) In the event OLC designates certain retailers to pay prizes of up to $5,000, pursuant to the Act and 429:10-1-7(b) (relating to payment of prizes), retailers so designated shall earn six-percent (6%) for each dollar of ticket sales plus three-quarters of one-percent (.75%) for each dollar of prizes $5,000 or less paid by the retailer; retailers so designated will receive $10 for each prize claim processed and forwarded to OLC for payment.

(c) Retailers will earn a bonus payment for selling a winning PowerBall or Hot Lotto ticket as provided herein:

(1) Powerball Jackpot prize ticket (6 of 6) $25,000;

(2) PowerBall second level prize ticket (5 of 5 white balls with no PowerBall) $5,000;

(3) Hot Lotto Jackpot prize ticket (6 of 6) $5,000;

(4) Hot Lotto second level prize ticket (5 of 5 white balls with no Hot Ball) $1,000;

(d) This bonus payment will be paid to the retailer in a manner as determined by the Oklahoma Lottery Commission regardless of whether the winning prize ticket is claimed by the apparent winner or not.

429:10-1-5. Acceptance and return of instant lottery tickets

(a) All instant lottery tickets ordered by retailer and accepted from OLC or its authorized distributor are deemed to be purchased by retailer at the price established by OLC, less appropriate retailer commissions and/or OLC approved adjustments.

(b) Retailers will accept only complete ticket orders and will not be allowed to accept a part of the ticket order delivered to them.

(c) Retailers shall be responsible for lost, stolen, missing, damaged or destroyed active packs of instant tickets and will be charged the full price of the tickets minus any applicable commissions, unless the tickets are recovered by OLC. If a retailer notifies the OLC within 24 hours of any active pack of tickets becoming lost, stolen, missing, damaged or destroyed and files a police report, in instances when packs are stolen, and cooperates in the investigation by the OLC, the OLC may reduce the retailer's costs to $25.00 for each active pack.

(d) Retailers are responsible for lost, stolen, missing, damaged or destroyed inactive instant tickets. If a retailer notifies the OLC within 24 hours of any inactive pack of tickets becoming lost, stolen, missing, damaged or destroyed and files a police report, in instances when packs are stolen, and cooperates with OLC in the investigation by OLC, the OLC may waive any retailer cost for each inactive pack.

(e) The OLC will accept full inactive pack returns only as follows:

(1) after the official notification to retailers announcing an end of game, retailers shall have ~~three (3)~~ six (6) weeks after the official end date to return all full and inactivated packs of tickets to a lottery representative; or,

(2) within ten (10) days of termination, suspension, cancellation, revocation or non-renewal of the retailer's contract with the OLC.

(f) The OLC will accept partial pack returns only as follows:

(1) within ~~three (3)~~ six (6) weeks of the termination, suspension, cancellation, revocation or non-renewal of the retailer's contract with the OLC.

(2) within the specific time frames established by OLC as a part of an official game ending procedure.

(3) A maximum of four (4) breaks in ticket number sequence per pack will be allowed.

(4) The tickets must be returned to a designated OLC representative.

(g) The OLC will accept the return of all instant tickets damaged prior to delivery acceptance by the retailer. These tickets must be returned to a designated OLC representative within one week of receipt of the tickets. The OLC may, at their sole discretion, elect to accept the return of tickets damaged after delivery.

(h) Retailers shall keep sufficient inventory to support all sales between a two week delivery cycle. Retailers who frequently require emergency or special orders may be assessed a delivery charge at the discretion of the OLC.

[OAR Docket #08-603; filed 4-8-08]

TITLE 505. BOARD OF EXAMINERS IN OPTOMETRY
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #08-631]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Board Organization and Administration
505 1-3-5 [AMENDED]
505 1-3-6 [AMENDED]
505 1-3-7 [AMENDED]
505 1-3-8 [NEW]
505 1-3-9 [AMENDED]
AUTHORITY:
The Oklahoma Board of Examiners in Optometry; 59 O.S. §§ 581, 584, 585 et seq.
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n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
This proposed rulemaking amends 505: 1-3-5, 505: 1-3-6, and 505: 1-3-7 to specify that the official records of the Board are available for public inspection at the Board office, rather than at the office of the Secretary-Treasurer, and to delete the specific address for the Board now found in 505: 1-3-6 in favor of a provision allowing the Board to designate its office address from time to time. Additionally, 505: 1-3-6 was amended to allow contact with the Board through electronic mail and facsimile, as well as regular mail.

The proposed new rule 505: 1-3-8 specifies that for all purposes under the Board's rules the Board's office is deemed to be the office of the office of the Secretary-Treasurer. Papers of any nature that must be served upon the Secretary-Treasurer are to be sent to the Board's office to the attention of the Secretary-Treasurer.

This proposed rulemaking also amends 505: 1-3-9 to increase the fee for examination for licensure from $150 to $200 and to increase the yearly license fee from $150 per year to $200 per year. The proposed amendment also clarifies that the examination fee presently in law also applies to persons retaking the examination as may be allowed by law or by the rules of the Board.
CONTACT PERSON:
Robert A. Nance, 5801 N. Broadway Extension, Suite 101, Oklahoma City, OK 73118, (405) 843-9909.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2008:

SUBCHAPTER 3. BOARD ORGANIZATION AND ADMINISTRATION

505:1-3-5. Official Board records

Information as to the operations or business transacted by the Board can be obtained from any of the five (5) members of the Board, but the official records of the Board are kept ~~by the Secretary-Treasurer, and such information is best obtained from him, and submissions or requests should also be made to him~~ at the official office of the Board at such location as the Board may from time to time designate.

505:1-3-6. Availability of records and manner of obtaining information

All files, records, minutes, proceedings, rules and regulations, documents, decisions and opinions, written statements of policy, orders, instructions, and written materials of any other nature required by law to be maintained by the Board are available for public inspection in the Office ~~of the Secretary-Treasurer~~ of the Board. Any person desiring any information concerning the Board, its policies or procedures, or any pertinent information concerning said organization or licensee may make submission or request to the Board, either in person or by regular mail, electronic mail, or facsimile, by directing such submissions or requests to the Office of the ~~Secretary-Treasurer of the~~ Oklahoma Board of Examiners in Optometry, ~~6912 E. Reno, Suite 302, Midwest City, OK 73110 or to~~ at such ~~other office designated by the Board~~ location as the Board may from time to time designate.

505:1-3-7. Availability of Board rules, regulations, policy Statements

Rules and regulations of the Board, and all other written statements of policy or interpretations, formulated, adopted, or used by the Board in the discharge of its functions, will be available in the office of the ~~Secretary-Treasurer~~ Board for public inspection from 9:00 o'clock a.m. to 4:00 o'clock p.m., daily, except Saturdays, Sundays and legal holidays; and all final orders, decisions and opinions of the Board will similarly be available for public inspection

505:1-3-8. Office of the Board is deemed to be the office of the Secretary-Treasurer

The office of the Board of Examiners in Optometry is deemed to be the office of the Secretary-Treasurer for all purposes under the rules of the Board. Any application, pleading, document or other matter which, under the rules of the Board, must be in any way filed with, submitted to, or requested of, the Secretary-Treasurer shall be addressed to the Secretary-Treasurer at the Board's office. Similarly, documents or records required to be kept by the Secretary-Treasurer shall be kept at

the Board's office and shall be available to the Secretary-Treasurer for the performance of his or her duties.

505:1-3-9. Examination and Annual License Fee.

(a) The fee for examination of candidates for persons desiring to commence the practice of optometry is set at $200.00. This fee shall apply to those initially taking the examination, and to any persons retaking the examination as may be allowed by law or by the rules of the Board.

(b) The annual license fee ~~required by 59 O.S. Supp. 1994 Section 587~~ is set at ~~$150.00~~ $200.00 for each fiscal year beginning July 1, ~~1994~~ 2008.

[OAR Docket #08-631; filed 4-9-08]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #08-570]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions [NEW]
590:1-1-5. Retirement Coordinators [AMENDED]
590:1-1-6. Hearing procedures [REVOKED]
Subchapter 3. Administrative Review and Hearings [NEW]
590:1-3-1. Purpose and general overview of administrative hearings [NEW]
590:1-3-2. Definitions [NEW]
590:1-3-3. Commencement of hearing [NEW]
590:1-3-4. Hearing Examiner [NEW]
590:1-3-5. Representation and participation in administrative proceedings [NEW]
590:1-3-6. Location of hearings [NEW]
590:1-3-7. Pre-hearing conference [NEW]
590:1-3-8. Hearing procedure [NEW]
590:1-3-9. Pleadings; filing; order [NEW]
590:1-3-10. Discovery [NEW]
590:1-3-11. Rules of evidence [NEW]
590:1-3-12. Proposed order; objections; rehearing [NEW]
590:1-3-13. Hearing before the Board of Trustees [NEW]
590:1-3-14. Rehearing; appeal [NEW]
590:1-3-15. Settlement [NEW]
590:1-3-16. Prohibited communications [NEW]
590:1-3-17. Expedited proceedings [NEW]
590-1-3-18. Declaratory rulings [NEW]
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ANALYSIS:
Amendments to Chapter 1 provide more efficient and uniform administrative operations. The amendment to 590:1-1-5 removes a requirement of Retirement Coordinators to provide a certain annual report to members. The report is already provided and available to members and it is redundant to require Retirement Coordinators to also provide copies of the report. A new Subchapter 3 replaces the existing 590:1-1-6 relating to administrative hearing procedures. The new rules set forth the legal rights and obligations of members, joint annuitants, beneficiaries, and participating employers in individual proceedings pursuant to the Administrative Procedures Act. These rules set forth the duties of the hearing examiner and the parties, the order of the hearing process and appeal, and establish guidelines for motions, pleadings and discovery. The amendments also set forth the process for the proposed order, the hearing before the Board of Trustees and requests for rehearing. The amendments set forth the administrative process for expedited proceedings. The amendments also provide for declaratory rulings and establish a procedure for such rulings.
CONTACT PERSON:
Joseph A. Fox, General Counsel, Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118, 405-858-6737

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2008:

SUBCHAPTER 1. GENERAL PROVISIONS

590:1-1-5. Retirement Coordinators

(a) Retirement Coordinators shall be appointed for each participating county, city, town or county hospital and each State agency to serve as a representative between the Retirement Board and the participating Employer.

(b) These Retirement Coordinators shall be responsible for the enrollment, assistance of the completion of forms, and instructions to the members on behalf of the participating employer relating to the Oklahoma Public Employees Retirement System.

(c) The Retirement Coordinator shall be responsible for ~~insuring~~ ensuring that each participating member of the System is provided a copy of the most current Member Handbook~~, each year's Summary Annual Report,~~ and all other official notices from the System. Each Retirement Coordinator shall establish and maintain sufficient documentation to verify compliance with this rule, and shall furnish said verification upon request by the System.

(d) The Retirement Coordinator is employed by and under the authority of each participating county, city, town or county hospital and each State agency and is not an employee of the System. The System will make available information and

training opportunities, however, it is the responsibility of the Coordinator to become familiar with the Plan provisions and keep abreast of all changes and amendments. Neither the System nor the Board will be liable for or bound by any mistakes, errors or misrepresentations of the Retirement Coordinators.

590:1-1-6. Hearing procedures [REVOKED]

~~(a) **Request for hearing.** Any decision of the System may be appealed to the Board of Trustees. The member or beneficiary must appeal the decision of the System within thirty (30) days of receipt of notification of denial by the System. The appeal shall set forth, in writing, the applicable facts and relevant law in support of the request for a hearing. For purposes of this rule, the System includes the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices & Judges, the Oklahoma State Employees Deferred Compensation Plan, and the Oklahoma State Employees Deferred Savings Incentive Plan.~~

~~(b) **Assignment of hearing.** Appeals to the Board of Trustees will be assigned to a hearing examiner, who will conduct an evidentiary hearing and prepare a proposed order for the Board of Trustees. The Chairman of the Board of Trustees or his/her designee shall appoint the hearing examiner from a list of individuals previously selected by the Board of Trustees to act in this role. The Executive Director shall have authority for the purpose of the evidentiary hearing to issue subpoenas for witnesses or subpoenas duces tecum to compel the production of books, records, papers and other objects, which subpoenas may be served by any duly qualified officer of the law or any employee of the Board in any manner prescribed for the service of a subpoena in a civil action.~~

~~(c) **Prehearing Conference; Briefing.** A Prehearing Conference will be scheduled to determine the legal or factual issues. The Prehearing Conference shall be conducted at least seven (7) days prior to the evidentiary hearing, unless waived by the parties. Prior to the hearing before the hearing examiner, each party shall be afforded the opportunity to present a written brief setting forth the party's position to be included as part of the record.~~

~~(d) **Transcript.** The System shall cause a full stenographic record of the hearing(s) to be made by a competent court reporter. If transcribed, such record shall be a part of the record of the hearing(s), and a copy of such stenographic record shall be furnished to any other party having a direct interest therein at the request and expense of such party.~~

~~(e) **Evidentiary hearing procedure; Rehearing.** Evidentiary hearings will be conducted under the provisions of the Administrative Procedures Act [75 O.S. 250 et. seq.]. Any party shall at all times have the right to counsel, provided that such counsel must be duly licensed to practice law by the Supreme Court of Oklahoma, and provided further that such counsel shall have the right to appear and act for and on behalf of the party he/she represents. All hearings shall take place in the offices of the Public Employees Retirement System. Any party to the evidentiary hearing is expected to provide timely notice to all of the other parties if a delay or failure to appear is anticipated. Opportunity shall be afforded to all parties to respond and present evidence and arguments on all issues involved. The party requesting the hearing shall be heard first; those who oppose the relief sought by the requesting party shall be heard next. Once the hearing examiner receives all evidence, arguments and briefs, the record shall be closed. The hearing examiner may grant a rehearing, reopening or reconsideration of the evidentiary hearing upon a showing of good cause by either party prior to the date of the meeting before the Board of Trustees.~~

~~(f) **Scheduling of deadlines and Board Meeting.** Prior to the close of the evidentiary hearing, each party shall be permitted to submit a proposed schedule including deadlines for filing of objections, responses to objections, and the date of the hearing before the Board of Trustees. After the parties have been afforded an opportunity to submit their proposed schedules, the hearing examiner shall produce, before adjourning the evidentiary hearing, a schedule of deadlines for filings and the date of the hearing before the Board of Trustees.~~

~~(g) **Hearing Examiner's authority.** The presiding hearing examiner may:~~

~~(1) Establish the scheduling order for the hearing which will include all time lines and deadlines for filings and the date of hearing before the Board of Trustees;~~

~~(2) Rule on any requests for an extension of time;~~

~~(3) Rule on motions and other procedural items;~~

~~(4) Regulate the course of the hearing, rule on the admissibility of all evidence, and regulate the conduct of the participants;~~

~~(5) Request additional briefs, from either or both parties, on issues and/or law as may be reasonably necessary;~~

~~(6) Take official notice of any material fact not appearing as evidence in the record, if the fact is among traditional matters of judicial notice;~~

~~(7) Administer oaths or affirmations;~~

~~(8) Recess and reconvene the hearing;~~

~~(9) Order the proceedings to be expedited in the event of severe financial hardship.~~

~~(h) **Proposed order.** Each party shall be permitted the opportunity to submit a proposed order, including findings of fact and conclusions of law, to the hearing examiner at the close of the hearing. After the close of the record, the hearing examiner shall prepare a proposed order to be delivered to the Board of Trustees. This proposed order shall include findings of fact, based exclusively on the evidence and on matters officially noted in the record of the hearing, conclusions of law and a recommended order to the Board of Trustees. A copy of this proposed order shall be provided to all parties by the System as soon as practical, and at least fifteen (15) days prior to the Board Meeting. The parties may waive the fifteen (15) day requirement by written stipulation.~~

~~(i) **Objections to proposed order.** The parties shall have the right to file a written statement outlining any objections, exceptions and/or arguments they desire the Board of Trustees to consider in its consideration of the hearing judge's proposed order. This statement must be filed with the System within the time limit prescribed by the hearing examiner and shall be provided to the other party. A party which fails to file a written statement outlining any objections, exceptions and/or arguments prior to the deadline waives the opportunity to object to~~

~~the adoption of the proposed order by the Board of Trustees. The parties may prepare a written response in rebuttal to the other party's objecting statement. A copy of any response shall be filed with the System within the time limit prescribed by the hearing examiner and provided to the other party prior to the Board of Trustees' meeting. The parties may not introduce additional evidence or materials in the written objections or in the responses.~~

~~(j) **Board of Trustees' hearing procedure.** When the proposed order comes before the Board of Trustees for consideration, the parties shall be afforded an opportunity to make a brief statement to the Board concerning the facts and any arguments he/she wishes to present and will be allowed to respond to questions from Trustees. In addition to oral argument, the Board may review the complete record, including a transcript of the original hearing conducted by the hearing examiner and all documentary evidence, and/or remand the case to receive additional evidence and testimony. The Chairman of the Board of Trustees will have final authority to set the amount of time any party may have to present information to the Board.~~

~~(k) **Final order.** After consideration of the record and arguments, both oral and written, the Board shall accept, reject or modify the proposed order. If the Board does find the facts to be in error or incomplete, the Board shall remand the case, with instructions, to the hearing examiner for further evidentiary hearing. A copy of the Board's final order will be delivered via mail to the member and/or the member's representative by the System within fifteen (15) days of final action by the Board of Trustees. As in all matters before the Board, seven (7) votes are necessary to approve any motion, resolution or order under consideration.~~

~~(l) **Appeal; Rehearing.** Any party receiving an adverse final order from the Board retains certain rights under the Administrative Procedures Act. The member may file an action for judicial review in the District Court of Oklahoma County. Such action must be filed within thirty (30) days after the aggrieved party is notified of the Board's order. The member may also file an application for a rehearing, reopening or reconsideration of the decision of the Board. The application must be filed with the System within ten (10) days from the date of the Board's decision and must be in compliance with 75 O.S. §317.~~

~~(m) **Settlement.** Unless precluded by law, informal disposition may be made of any individual proceedings by stipulation, agreed settlement, consent order, or default. The Executive Director shall report to the Board of Trustees any settlement that occurs after the hearing judge's proposed order is filed.~~

~~(n) **Expedited proceedings.** A decision by the System that a member or beneficiary does not meet the requirements for a severe financial hardship for the System's deferred compensation plan or a decision that has created a severe financial hardship under any other of the System's plans may be appealed for review before a hearing examiner. The parties may stipulate to expedite proceedings. In the event the parties do not agree to expedite the proceedings, the aggrieved party may make a motion to expedite proceedings to the hearing examiner. The hearing examiner shall rule on the party's request for expedited proceedings within seven (7) days after the filing of the motion with the System. The parties shall also be permitted to submit a proposed schedule of the proceedings in the event the hearing examiner does grant the motion. In the event the hearing examiner grants the motion, the hearing examiner shall also produce an expedited schedule of the proceedings to be implemented. In all other aspects, the hearings and proceedings shall be conducted in a similar manner to that of normal hearings and proceedings.~~

~~(o) **Prohibited communication.** The Administrative Procedures Act prohibits direct or indirect communications by any party and/or the representatives of a party with the hearing examiner and the Board of Trustees in connection with any issue of fact or law regarding an appeal before the hearing examiner or Board, except upon notice which provides an opportunity for all parties to participate. The hearing examiner and the Board of Trustees will not consider any evidence or statements made to them by a party and/or the representatives of a party in connection with a pending appeal.~~

SUBCHAPTER 3. ADMINISTRATIVE REVIEW AND HEARINGS

590:1-3-1. Purpose and general overview of administrative hearings

(a) **Purpose.** The purpose of this Subchapter is to give the member or beneficiary a reasonable way to have a disagreement or controversy considered fairly. In all cases, the member or beneficiary shall have an opportunity to resolve disagreements with the System without a formal hearing.

(b) **Formal hearing.** If a case cannot be resolved informally, the provisions of this Subchapter provide for a formal hearing before a Hearing Examiner, who is not an employee or officer of the System. The Hearing Examiner makes proposed findings, conclusions and recommendations which are reviewed and acted upon by the Board of Trustees.

(c) **Right to appeal.** The member, joint annuitant or beneficiary retains the right to seek relief from a final order in an administrative hearing by the Board of Trustees by way of appeal to the District Court of Oklahoma County.

(d) **Governing rules.** The rules set forth in this Subchapter shall govern all contested proceedings before the System or its delegated Hearing Examiner. These rules shall be given the most reasonable meaning, taken in their total context, and will be construed to secure due process in the proper resolution of each controversy.

590:1-3-2. Definitions

For purposes of this Subchapter:

"Claimant" means the member, joint annuitant, beneficiary or participating employer filing an appeal with the System.

"System" means the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma State Employees Deferred Compensation Plan, and the Oklahoma State Employees Deferred Savings Incentive Plan.

590:1-3-3. Commencement of hearing

(a) **Appeal.** A decision of the System affecting service credit, contributions, benefits, eligibility or any other rights of a claimant may be appealed to the Board of Trustees. The appeal must be commenced by filing a timely written request with the General Counsel. In order for the appeal to be considered timely, it must be filed within thirty (30) days after the date of mailing of the decision.

(b) **Contents of appeal.** The appeal shall be in writing and shall set forth the following:

(1) the name, address and Social Security number of the claimant;

(2) a statement regarding the nature or amount of the disagreement or dispute;

(3) a clear and concise assignment of each error alleged to have been committed;

(4) a brief summary of the argument and relevant legal authority upon which each assignment of error is made; provided, the claimant shall not be bound or restricted in the hearing, or on appeal, to the arguments and legal authorities contained and cited in this initial writing; and

(5) a statement of the relief sought.

(c) **Assignment of hearing number; pre-hearing conference date.** The General Counsel shall assign a hearing number to the appeal, create a court file, notify the Hearing Examiner, and set a date for a pre-hearing conference between the parties and the Hearing Examiner.

590:1-3-4. Hearing Examiner

Appeals to the Board of Trustees shall be assigned to a Hearing Examiner who will conduct a pre-hearing conference and an evidentiary hearing and prepare a proposed order for the Board of Trustees. The Chair of the Board of Trustees, or a designee of the Chair, shall appoint the Hearing Examiner from a list of individuals previously selected by the Board of Trustees to act in this role.

590:1-3-5. Representation and participation in administrative proceedings

(a) **Pro se or legal counsel.** Claimant may appear pro se at any stage of the proceeding or may be represented by legal counsel, provided such counsel must be duly licensed to practice law in the State of Oklahoma, and that such counsel has the right to appear and act for and on behalf of the claimant.

(b) **Other representation.** If the claimant wants to be represented by someone other than himself/herself or an attorney, the Hearing Examiner may require that such person, before being recognized as a representative of the claimant, make a proper showing that he or she has the necessary qualifications to enable the representative to render such services to the claimant. Upon such showing by the representative, the Hearing Examiner shall certify the representative.

(c) **Proof of authority to represent.** Any person representing a claimant may be required to show written proof, in a form satisfactory to the System, of his or her authority to represent the claimant in the matter.

590:1-3-6. Location of hearings

All hearings shall take place in the offices of the Oklahoma Public Employees Retirement System. The hearing may be relocated upon a showing that extreme or unusual circumstances exist which would prejudice the claimant. Any such request for relocating the hearing shall be made to the Hearing Examiner who may approve only upon good cause shown or if agreed to by the System.

590:1-3-7. Pre-hearing conference

(a) **General provisions.** A pre-hearing conference shall be scheduled with the Hearing Examiner within sixty (60) days of receipt by the System of the appeal and at least thirty (30) days prior to the hearing, unless such time periods are waived by the parties. The conference shall be informal, structured by the Hearing Examiner, and not open to the public. The purpose of the pre-hearing conference is to allow the parties, before the Hearing Examiner, to attempt to resolve the case or parts of it, to discuss the facts, identify legal issues, present discovery requests, make appropriate stipulations, and to propose a procedural schedule. A record of the pre-hearing conference shall not be made unless requested by the parties and ordered by the Hearing Examiner. If ordered, a stenographic record shall be made in accordance with and pursuant to 590:1-3-8(d).

(b) **Notice and continuance.** The claimant shall be notified by the System of the date and time at least seven (7) calendar days prior to the scheduled conference. A request for a continuance shall be filed with the System no less than three (3) calendar days prior to the scheduled conference. A lesser period of time may be permitted for good cause shown.

(c) **Rulings; pre-hearing conference order.** During the pre-hearing conference, the Hearing Examiner shall make all the necessary rulings. At the conclusion of the pre-hearing conference, the Hearing Examiner shall issue a pre-hearing conference order which shall set forth the agreements reached at the pre-hearing conference. The pre-hearing conference order shall be signed by the parties and the Hearing Examiner. The pre-hearing conference order shall set forth, among other things, the following information:

(1) the date and time of the hearing;

(2) the date to file a written brief or statement of the case;

(3) the date to file a list of witnesses, documents and exhibits. Any witnesses for whom a subpoena is required shall include the name, address and a brief statement of the testimony to be offered; and

(4) any requirements or request for discovery.

(d) **Failure to appear.** If the claimant fails to appear at the scheduled pre-hearing conference or to timely request a continuance of the pre-hearing conference, the Hearing Examiner shall dismiss the appeal and notice shall be sent to the claimant of the dismissal.

590:1-3-8. Hearing procedure

(a) **Purpose and process.** The hearing provides each party the opportunity to present witnesses and evidence in support of

his or her respective case. Hearings shall be conducted in accordance with the Administrative Procedures Act and the rules in this Subchapter. The hearing shall be structured by the Hearing Examiner and open to the public. The Hearing Examiner may order parts of the proceedings closed when evidence of a confidential nature is to be introduced or where to do so would be in the best interests of a party, witness, the public or other affected persons.

(b) **Party responsibility.** Each party shall be present, on time, and prepared. Failure to do so may result in dismissal of the appeal unless good cause is shown.

(c) **Hearing Examiner responsibility.** The Hearing Examiner will convene the hearing, note appearances, and consider any motions or preliminary matters. The Hearing Examiner shall administer oaths or affirmations of the witnesses. The Hearing Examiner may also:

(1) question any party or any witness;

(2) establish a scheduling order for the hearing to include time lines for further filings and the date of the hearing before the Board of Trustees;

(3) rule on any request for an extension of time, or on any other motions or other procedural matters;

(4) regulate the course of the hearing, rule on admissibility of all evidence, and regulate the conduct of the participants;

(5) request additional briefs on issues or law as may be reasonably necessary;

(6) take official notice of any material fact not appearing as evidence in the record if the fact is among traditional matters of judicial notice;

(7) recess and reconvene the hearing; or

(8) order the proceedings to be expedited in the event of severe financial hardship, upon good cause shown, in accordance with 590:1-3-17.

(d) **Transcript of hearing.** The System shall cause a full stenographic record of the hearing to be made by a competent court reporter. A copy of the stenographic record shall be provided to any party to the proceeding at the request and expense of such party.

(e) **Arguments; witnesses; evidence.** The party requesting the hearing shall be heard first and has the burden of proof to show in what respect the action or proposed action of the System is incorrect. Each party shall have the opportunity to present its case, to make opening statements, to call and examine witnesses, to offer documentary evidence into the record and to make closing arguments. Each party shall also have the opportunity to cross-examine opposing witnesses on matter covered in direct examination and, in the discretion of the Hearing Examiner, upon matter relevant to the issues even though not covered in direct examination. Any objection to testimony or evidentiary offers should be made, and the basis of the objection stated on the record.

(f) **Scheduling order.** Prior to the closing of the record, each party shall agree to a proposed scheduling order which shall include deadlines for submitting a proposed final order, filing objections to the Hearing Examiner's Proposed Final Order, rebuttals to any objections, requesting a rehearing, and the date of the hearing before the Board of Trustees. The Hearing Examiner shall sign the agreed scheduling order and each party shall receive a copy.

(g) **Closing the record.** The record shall be closed when each party has had an opportunity to be heard and present evidence. Once the record is closed, no additional evidence or arguments shall be considered. The Hearing Examiner may grant a rehearing, reopening or reconsideration of the hearing upon a showing of good cause by either party prior to the date of the scheduled hearing before the Board of Trustees.

590:1-3-9. Pleadings; filing; order

(a) **Filing of pleadings; paper size.** The General Counsel serves as the "Court Clerk" for the administrative hearing process and all original pleadings shall be filed therein. All pleadings shall be filed with the System no later than 5:00 PM on the required date. Pleadings not received by the deadline will be considered as filed out of time. The General Counsel shall forward copies of all original pleadings or other documents filed with the System in the hearing process to the Hearing Examiner in a timely manner. All pleadings shall be signed, dated and filed on letter size 8 $\frac{1}{2}$" x 11" paper and double spaced in 12 point type with 1" margins.

(b) **Electronic filing; facsimiles.** Electronic filing is encouraged. Electronic copies or facsimiles will be accepted but must be signed and filed by the appropriate deadline. Electronic copies shall be sent to the General Counsel as an email attachment. The attachment must be a scanned document in a pdf format reflecting the signature of the claimant or the representative of the claimant. Any exhibits filed electronically shall be contained in a separate pdf file and each exhibit properly labeled. It shall be the responsibility of the claimant to verify that the System has received the electronic copy or facsimile and that it is legible and acceptable to the System.

(c) **Order of filing briefs.** Each party shall have the opportunity to file a written brief or statement of the case setting forth the facts, arguments, and legal authorities. The briefs shall be included in the record. The claimant or party requesting the hearing shall submit a brief according to the pre-hearing conference order. The System shall respond to such brief within twenty (20) days of the filing of the claimant's brief. At the discretion of the Hearing Examiner, the claimant may file a reply to the System's response within seven (7) days of the filing of the System's response.

(d) **Continuances or extensions.** A party seeking a continuance or extension shall file a proper motion, and for good cause shown, a continuance or extension will be granted by the Hearing Examiner.

590:1-3-10. Discovery

(a) **Authority of the Hearing Examiner.** The Hearing Examiner may, upon his or her own motion, or on the motion of either party, allow the use of discovery available in a civil action in the District Courts of Oklahoma. The failure of a party to have sufficient time to exercise any discovery mechanism on account of a lack of time shall not of itself constitute good cause for the granting of a continuance of a hearing.

(b) **Subpoenas; costs; fees; service.** Subpoenas to compel the attendance of witnesses, for the furnishing of information required by the Hearing Examiner, and/or for the production of evidence or records of any kind may be issued by the Executive Director of the System. Subpoenas shall be served, and a return made, in any manner prescribed for the service of a subpoena in a civil action. The party requesting the subpoena shall bear the cost of serving it. Fees for a non-party witness who is subpoenaed to appear shall be the same as those fees allowed to witnesses in a civil matter. Party witnesses shall not be entitled to witness fees.

(c) **Confidentiality.** Any information obtained through discovery proceedings shall be used only for matters pending in the case in which they were discovered, and shall be accorded the same degree of confidentiality as any other document or information filed with or generated by the System.

590:1-3-11. Rules of evidence

The rules of evidence used during a hearing shall be those specified by the Oklahoma Administrative Procedures Act.

590:1-3-12. Proposed order; objections; rehearing

(a) **Proposed order.** After the close of the hearing, each party shall be permitted the opportunity to submit a proposed final order which shall include findings of fact and conclusions of law to the Hearing Examiner. The Hearing Examiner shall prepare and file with the System a proposed final order which shall include findings of fact, conclusions of law, and a recommended order to the Board of Trustees. A copy of the proposed order shall be provided to all parties by the System as soon as practical and at least twenty (20) days prior to the scheduled hearing before the Board of Trustees. The parties may waive the twenty-day requirement by written stipulation.

(b) **Objections to proposed order.** Each party shall have the opportunity to file a written statement setting forth any objections, exceptions and/or arguments they desire the Board of Trustees to consider in its review of the proposed order by the Hearing Examiner. This statement shall be filed with the System within the time limit prescribed by the Hearing Examiner in the scheduling order and a copy shall be provided to the other party. The parties may prepare a written response in rebuttal to the other party's objecting statement within the time limit prescribed by the Hearing Examiner in the scheduling order and a copy shall be provided to the other party. In no event shall the objections or the response in rebuttal be filed less than seven (7) days prior to the hearing before the Board. New or additional evidence or materials may not be introduced by either party in the objections or in the responses.

(c) **Rehearing before the Hearing Examiner.** Each party shall have the opportunity to request a rehearing before the Hearing Examiner. Such request must be filed with the System and made within the time limit prescribed by the Hearing Examiner in the scheduling order. A copy shall be provided to the other party.

590:1-3-13. Hearing before the Board of Trustees

(a) **Procedure.** On a date set forth in the scheduling order, the Hearing Examiner's proposed order shall be set before the Board of Trustees for consideration. The parties shall have a reasonable opportunity to make a brief statement to the Board concerning the facts and any arguments and will be allowed to respond to any questions from the Trustees. The Board may review the complete record, including a transcript of the original hearing conducted by the Hearing Examiner and all documentary evidence. The Chair of the Board shall have authority to set the amount of time any party may have to present information to the Board.

(b) **Remand.** If the Board determines the facts to be in error or incomplete, the Board may remand the case, with instructions, to the Hearing Examiner for further evidentiary hearing.

(c) **Final order.** After consideration of the record and arguments, the Board shall accept, reject or modify the Hearing Examiner's proposed order. The final order shall include findings of fact and conclusions of law, separately stated. As in all matters before the Board, seven (7) affirmative votes are necessary to accept, reject or modify the order under consideration. A copy of the Board's final order shall be delivered to the claimant or the representative of the claimant within fifteen (15) days of final action by the Board.

590:1-3-14. Rehearing; appeal

(a) **Rehearing.** Any party receiving an adverse order from the Board may file a petition for rehearing, reopening or reconsideration of the final order of the Board. Such application shall be filed with the System within ten (10) days from the date of the entry of the Board's order and must be in compliance with 75 O.S. § 317.

(b) **Appeal.** Any party aggrieved by the order of the Board may, within thirty (30) days from the date the aggrieved party is notified of the order, file an action for judicial review in the District Court of Oklahoma County.

590:1-3-15. Settlement

Unless precluded by law, informal disposition may be made of any individual proceeding by stipulation, agreed settlement, consent order, or default. The Executive Director or the General Counsel shall report to the Board of Trustees any settlement that occurs after the filing of the proposed order by the Hearing Examiner.

590:1-3-16. Prohibited communications

The Administrative Procedures Act prohibits direct or indirect communications by any party or representative of a party with the Hearing Examiner or the Board of Trustees in connection with any issue of fact or law regarding an appeal before the Hearing Examiner or Board, except upon notice which provides an opportunity for all parties to participate. The Hearing Examiner and the Board shall not consider any evidence or statements made to them by a party or a representative of a party in connection with a pending appeal.

590:1-3-17. Expedited proceedings

(a) **Cases which may be expedited.** In an appeal before the Hearing Examiner, the System and the claimant may stipulate to expedite the hearing proceedings in the following cases:

(1) a decision by the System that a claimant does not meet the requirements for a severe financial hardship under the System's deferred compensation plan; or

(2) a decision that has created a severe financial hardship under any other of the System's plans.

(b) **Motion to expedite.** If the parties cannot agree to expedite the proceedings, the aggrieved party may file a motion to expedite proceedings. The Hearing Examiner shall rule on the motion within seven (7) days after the filing of the motion with the System.

(c) **Proposed schedule to expedite.** The parties shall be permitted to submit a proposed schedule of the proceedings in the event the Hearing Examiner grants the motion. If the motion is granted, the Hearing Examiner shall file an expedited schedule of the proceedings.

(d) **Conduct of expedited hearing.** In all other aspects, the hearing shall be conducted in a similar manner as a hearing which has not be expedited.

590:1-3-18. Declaratory rulings

(a) **General provisions.** The Board of Trustees may issue declaratory rulings as to the applicability of any rule or principle of law embodied in an order of the Board which is requested by or on behalf of any member, joint annuitant or beneficiary directly affected thereby subject to the terms and conditions set forth in this section.

(b) **Form of petition; where to file.** A declaratory ruling petition must be made in writing, be signed by the petitioner or an authorized representative or agent, and filed with the General Counsel of the System. The petition must state:

(1) that a declaratory ruling is requested pursuant to 590:1-3-18;

(2) the petitioner's name, address, phone number, and Social Security number;

(3) the issue(s) and all relevant facts on which a declaratory ruling is requested, stated clearly and concisely;

(4) the petitioner's desired result and legal basis for that result, including reference to the applicable statutes, rules and case law; and

(5) whether the petitioner is presently pursuing any administrative review, litigation, or negotiation on the issue with the System, as well as the name of any other person or entity that the petitioner or a duly authorized representative knows is involved with the identical issue pending before or with the System.

(c) **Proposed draft.** The petitioner may provide a proposed draft ruling for consideration by the Board of Trustees.

(d) **Additional information.** The Board may request additional information from the petitioner as deemed necessary to issue a declaratory ruling. Failure to provide the requested information shall result in denial of the petition.

(e) **Effect of a declaratory ruling.** A declaratory ruling shall have the following effect:

(1) the ruling shall apply only to the particular fact situation stated in the petition;

(2) the ruling shall apply only to the petitioner;

(3) the ruling shall bind the Board and the System only prospectively; and

(4) the ruling may be revoked, altered or amended by the Board at any time.

(f) **Exceptions to binding effect of declaratory ruling.** The declaratory ruling shall cease to be binding if:

(1) a pertinent change is made in the applicable law by the Legislature;

(2) a pertinent change is made in the rules of the Board or the System;

(3) a pertinent change in the interpretation of the law is made by a court or administrative tribunal; or

(4) the actual facts are determined to be materially different from the facts set out in the petitioner's declaratory ruling petition.

(g) **Issuance of a declaratory ruling.** The Board shall make a good faith effort to issue a declaratory ruling within ninety (90) days from the date of receipt of a complete and proper petition unless, in the discretion of the Board, the issue is of such complexity or novelty that additional time is required.

(h) **Contents of a declaratory ruling.** A written response from the Board or any employee or agent of the Board or System to any inquiry from any person or entity shall not be construed to be a declaratory ruling unless made in conformity with this subsection. A declaratory ruling shall contain:

(1) a statement that: "This is a declaratory ruling issued by the Board of Trustees of the Oklahoma Public Employees Retirement System pursuant to 75 O.S. § 307" or similar wording; and

(2) the signature of the Chair or Vice-Chair of the Board of Trustees.

(i) **Denial of a petition for declaratory ruling.** The Board, in its discretion, may deny a petition for declaratory ruling for good cause. In this instance, the Board shall indicate in writing the reasons for refusing to issue a declaratory ruling. Good cause includes, but is not limited to, the following:

(1) the petition does not substantially comply with the information required by this section;

(2) the petition involves hypothetical situations or alternative plans;

(3) the petitioner requests the Board to interpret or apply a statute, or requests a determination as to whether a statute is constitutional under the Oklahoma Constitution or the United States Constitution;

(4) the facts or issues presented in the petition are unclear, overbroad, insufficient or otherwise inappropriate as a basis upon which to issue a declaratory ruling;

(5) the issue about which the declaratory ruling is requested is primarily one of fact;

(6) the issue is presently being considered in a rulemaking, administrative or judicial proceeding that may definitively resolve the issue;

(7) the issue cannot be reasonably resolved prior to the issuance of rules;

(8) the issue is the subject of an administrative proceeding or litigation; or

(9) the petitioner is not identified or is anonymous.

(j) **Withdrawal of petition for declaratory ruling.** The petitioner may withdraw the petition for a declaratory ruling, in writing, prior to the issuance of the declaratory ruling.

(k) **Judicial review.** A declaratory ruling, or refusal to issue such ruling, shall be subject to a judicial review, pursuant to the Administrative Procedures Act, in the same manner as individual proceedings.

[OAR Docket #08-570; filed 4-4-08]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 10. PUBLIC EMPLOYEES RETIREMENT SYSTEM

[OAR Docket #08-571]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Credited Service
590:10-3-6. Full-time-equivalent employment [AMENDED]
590:10-3-9. Purchase price payments [AMENDED]
Subchapter 7. Retirement Benefits
590:10-7-7. Allowable adjustments [AMENDED]
590:10-7-9. Fractional year computations [AMENDED]
590:10-7-13. Filing for retirement and Initial retirement benefit [AMENDED]
590:10-7-15. Post-retirement employment - calculation of benefits and service [AMENDED]
590:10-7-18. Post-retirement employment - eligibility [NEW]
Subchapter 19. Medicare Gap Benefit Option
590:10-19-2. Definitions [AMENDED]
590:10-19-3. Medicare Gap Benefit option [AMENDED]
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Amendments in Subchapter 3 of Chapter 10 include changes and clarifications making the administration of service credit easier for elected officials to calculate and allow certain members the opportunity to repay certain withdrawals. The amendment to 590:10-3-6 clarifies the start date of participation by an elected official. This amendment simplifies the enrollment date by making it the same date the elected official begins their term of office. The amendment to 590:10-3-9 allows repayment of withdrawn contributions if the member had previously stopped making installment payments on such repayment. This amendment will allow the member, upon returning to service, to repay the remaining balance of withdrawn contributions in a one-time lump sum amount plus interest.

Amendments in Subchapter 7 of Chapter 10 relate to delinquent service adjustment, calculation of fractional years for certain elected officials, sixty-day notice waiver, and post-retirement employment. The amendment to 590:10-7-7 adds delinquent service to the list of adjustments which may be made to benefits and be retroactive to the effective date of retirement. The amendment to 590:10-7-9 deletes obsolete language and modifies how fractional years of service are calculated for elected officials who do not participate in an elected status for at least six (6) full years.

The amendments to 590:10-7-13, 590:10-19-2 and 590:10-19-3 were adopted as emergency rules in 2007 and are now being made permanent rules. They are intended to implement the provisions enacted in Sections 1 and 2 of Enrolled Senate Bill 1112 of the 1st Session of the 51st Oklahoma Legislature. In accordance with Senate Bill 1112, the amendment to rule 590:10-7-13 authorizes the Executive Director to accept or deny an application for waiver of the 60-day notice requirement. Upon the request of the member, any denial of the waiver by the Executive Director may be reviewed by the Board of Trustees. The amendment also modifies the grounds for a waiver to include unexpected changes in job status. In accordance with Section 2 of SB 1112, the amendment to rule 590:10-19-2 modifies the definitions under the Medicare Gap Benefit Option to reflect the change in the time period the Medicare Gap Benefit Option increases the retirement benefit and the time period of the reduction of the retirement benefit. The amendment also clarifies the date of the Option Effective Date. The amendment to 590:10-19-3 sets forth and clarifies the rules as they apply to members who elected the Medicare Gap Benefit Option prior to July 1, 2007, and those members selecting the benefit option on or after July 1, 2007.

The amendment to 590:10-7-15 clarifies the title to the rule. A new rule is added which sets forth certain requirements for eligibility for returning to work after retirement. The amendment provides that retirees returning to work are subject to certain restrictions. The rule also sets forth guidelines for bona fide terminations from employment, guidelines for determining who qualifies as an independent contractor for retirement purposes, and prohibits pre-arranged rehires.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2008:

SUBCHAPTER 3. CREDITED SERVICE

590:10-3-6. Full-time-equivalent employment

(a) Full-time-equivalent employment is a term which refers to a member's actual employment with a participating employer of the System. Full-time-equivalent employment with a participating Employer must have been service for which required contributions have been paid the System.

(1) Members obtain full-time-equivalent employment in two ways:

(A) actual employment with a participating employer of the System, while participating and paying contributions to the System; and/or

(B) making certain types of purchases of service credit which represent actual employment with a participating employer of the System.

(2) Each hour for which retirement contributions are paid shall credit the member with one (1) hour of full-time-equivalent employment. ~~173~~ One hundred seventy-three (173) hours shall constitute one month of full-time-equivalent employment

(3) Examples of service and/or employment which do not constitute full-time-equivalent employment include, but are not limited to: overtime, leave without pay, unused sick leave, bonus years, temporary or seasonal employment, prior service or military service granted free of charge, purchased military service credit other than purchases pursuant to the Uniformed Services Employment and Reemployment Rights Act, service purchased from another retirement system including transported service, and purchased incentive, severance or termination credit.

(4) Examples of service and/or employment which do constitute full-time-equivalent employment include, but are not limited to: purchased prior service, repayment of withdrawn contributions, purchase of elected service, purchased temporary total disability credit, purchases pursuant to the Uniformed Services Employment and Reemployment Rights Act, and delinquent service paid for by the employer.

(b) For purposes of determining the full-time-equivalent employment for elected officials, if the elected official is in office and participating for fifteen (15) days or more in either the first or last month in such office, the full month will be credited as service for such official. If an elected official resigns from office effective on a day other than the last day of the month, then such elected official shall not receive credit for a full month, but only those hours of full-time-equivalent employment service for that month.

(c) Elected officials who elect to participate within ninety (90) days after taking office, and those elected officials who fail to file an election within the ninety-day period and are automatically enrolled in the System, shall be deemed to begin service in the System on the date the elected official takes office. The elected official and the employer shall be responsible for the necessary contributions to cover such time period.

590:10-3-9. Purchase price payments

(a) An active member of the System may elect the payment of the actuarial purchase price, repayment of a previous withdrawal, purchase of previous non-participating elected service, or to purchase an increase in the contribution rate, or any other purchase or repayment permitted and authorized by the statutes governing the System, to be amortized in monthly installments to the extent allowed by law.

(1) A payment schedule may be established allowing the member to make monthly payments through payroll deductions by the member's employer if the employer agrees to make the deductions and remit payments to the System. Payments remitted by an employer for its employees must be kept separate from employer's regular retirement contributions or any other payments to the System including Deferred Compensation. Such payments do not qualify as "pre-tax" contributions under "employer pick-up" provisions of Section 414(h) of the Internal Revenue Code.

(2) The installment payment schedule provided for in this section must be in monthly increments. The minimum total monthly payment is $25.00. The member shall be responsible for maintaining the payment schedule. The payment due date will be based on the payroll schedule set by the member's employer. An installment not paid within sixty (60) days of the due date will result in termination of the installment payment schedule with the member given the option of paying the balance of the actuarial cost or receiving partial credit for payments made under the installment schedule as provided for in subsection (4) of this section.

(3) The monthly payment will be determined by amortizing the total amount due for the service to be purchased over the period of the installment schedule using an interest rate equal to the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings for the year in which the payment schedule is commenced.

(4) ~~If~~ Except as provided in subsection (8) of this section, if the installment payment is terminated for any reason, including termination of employment, death of the member or by cessation of payments, the member or ~~his~~ the beneficiary of the member will have the option of paying the remaining balance within six (6) months. If the balance is not paid, the member will receive credit for service prorated for only the principal amount paid and rounded to the last full month paid for. No refunds will be paid to the member.

(5) Credit for service purchased on an installment schedule will not be added to the member's account until the entire balance is paid, except as provided for in subsection (4) of this section. All payments must be completed in the month prior to the effective retirement date of the member. If any member or beneficiary elects to pay the balance during the 6 month period provided for in Subsection (4) of this Section, no benefits will be payable until the completion of said 6 month period, or receipt of a signed waiver. In no event will retroactive benefit payments be made, and the effective retirement date will be adjusted to the first day of the month following the completion of payments or receipt of waiver.

(6) Payments may be made directly to the System by the member or beneficiary if the member is in an unpaid

leave status, if the payroll is not sufficient to handle the entire payment, in the event of payroll error where employer fails to withhold the proper amount or during the six (6) month period referred to in subsection (4) of this Section.

(7) ~~If~~ Except as provided in subsection (8) of this section, if the purchase is terminated for any reason, the purchase cannot be made at anytime in the future~~,~~ following the 6 month option referred to in Subsection (4) of this Section. By failing to complete this purchase, the member or beneficiary forfeits the right to the purchase at any other time.

(8) If the installment payment for the repayment of a previous withdrawal is terminated for any reason, the member, upon returning to employment and meeting the eligibility requirements for membership, may pay the remaining principal balance at any time prior to the month of the effective retirement date. The total due shall be the unpaid principal balance, plus interest pursuant to 74 O.S. § 917(5), calculated from the date of the last installment payment received and paid in a one-time lump sum amount.

(b) Effective January 1, 2002, in lieu of installment payments, an active member may elect to make the payment of the actuarial purchase price, repayment of a previous withdrawal, purchase of previous non-participating elected service, or to purchase an increase in the contribution rate, or any other eligible purchase or repayment permitted and authorized by the statutes governing the System by use of a direct trustee to trustee transfer from a 457 deferred compensation plan or a 403(b) tax sheltered annuity program.

(c) Effective January 1, 2002, in lieu of installment payments or a direct transfer, an active member may elect to make the payment of the actuarial purchase price, repayment of a previous withdrawal, purchase of previous non-participating elected service, or to purchase an increase in the contribution rate, or any other eligible purchase or repayment permitted and authorized by the statutes governing the System by a rollover. The payment may be made by participant rollover contributions and/or direct rollovers of eligible rollover distributions made after December 31, 2001, from the following:

(1) a qualified plan described in section 401(a) or 403(a) of the Internal Revenue Code;

(2) an annuity contract described in section 403(b) of the Internal Revenue Code;

(3) an eligible plan under section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state; or

(4) a participant rollover contribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includable in gross income.

SUBCHAPTER 7. RETIREMENT BENEFITS

590:10-7-7. Allowable adjustments

Any adjustments made to the retirement benefit due to credit given for unused sick leave, ~~and/or~~ longevity payment or delinquent service shall be retroactive to the effective date of retirement.

590:10-7-9. Fractional year computations

(a) Title 74 O.S. §913(C) provides that a fractional year of six (6) months or more shall be considered as one (1) year, and less than six (6) months shall be disregarded. This round-up provision may be used one time for credited service of a member to establish the benefit of said member. This rule is necessary to prevent the gain or loss of service credit to a member. In no event shall the rounding up provisions apply if it would result in any member receiving an additional year or years that the member would not otherwise be entitled to.

(b) Title 74 O.S. ~~§915A~~ § 915(A) provides for the computation of retirement benefits of Department of Corrections Correctional and Pardon and Parole Officers at 2.25% for certain credit prior to July 1, 1990, and ~~2.50%~~ 2.5% for certain credit after July 1, 1990, and at 2% for all other credit.

(1) Such members may retire with fractional years of service credit in the 2.25% and the ~~2.50%~~ 2.5% categories and the statutes only provide for computation at these rates on full years of service. Due to the fact that only the total credited service can be rounded up, some members may face losing a year of service credit when the fractional years of credit are disregarded.

(2) To prevent such a loss of service credit, the fractional portions of years in the 2.25% and the ~~2.50%~~ 2.5% categories will be added to the years of credit used in the 2% category and rounded up therein, if applicable. If a member still loses a year of service credit after adding the fractional years to the 2% category, the fractional years may be added to the 2.25% category and rounded up therein, if applicable.

~~(c) Title 74 O.S. 94 Supp., §915 A provides for the bifurcated computation of compensation and service credit for both Pre-July 1994 and Post July 1994 for those members with a retirement date prior to July 1, 1998. As a result, these rules are necessary to implement this calculation.~~

~~(1) Members may retire with fractional years of service credit in the pre-July 1994 and/or the post-July 1994 divisions of service and the statutes provide for computation of the benefits using full years of service. Because only credited service may be rounded up, members may lose a year of service credit when fractional years are disregarded.~~

~~(2) To prevent members losing service credit, the fractional years of pre-July 1994 service will be added to the post-July 1994 service and the post-July 1994 service will be rounded up if applicable.~~

~~(3) Members who retire with less than one year of service credit after July 1994 (less than six months) and whose fractional years of service credit do not round up when added together, will have both pre-July 1994 and post-July 1994 benefits computed using the actual~~

~~number of years and months of service. The months will be expressed in fractions of a full year.~~

(~~d~~c) Hazardous Duty Members who elect to participate or are required to participate at the higher employee contribution rate will receive retirement benefits at the 2.5% category only on full years of service as Hazardous Duty Members for which the higher contributions have been paid. The fractional portions of years in the 2.5% category will be added to any other service credit, calculated in the 2% category and rounded up therein, if applicable, for the computation of the retirement benefit.

(~~e~~d) Elected officials who do not participate in an elected status for at least six (6) full years will receive retirement benefits ~~only~~ on ~~full~~ the years and months of elected service ~~and~~ instead of full years. The benefit shall be calculated ~~on~~ using the computation factor ~~assigned for~~ corresponding to the contribution rate the official paid during those years and months of elected service and on the highest annual salary earned as an elected official. ~~Any fractional portion of an elected year of service credit or any non-elected~~ Non-elected service credit will be calculated using the ~~2.0%~~ applicable computation factor. The elected and non-elected service shall be added to determine the total credited service. If this total results in a fractional year of six (6) months or more, it shall be considered as one year, and less than six (6) months shall be disregarded. The years and months of elected service shall then be deducted from the total credited service and the remaining balance of service shall be calculated using the applicable non-elected service computation factor.

(~~f~~e) Elected officials who participate at more than one contribution rate during their elected service will receive retirement benefits calculated using (1) the computation factor assigned for each contribution rate paid and (2) the highest annual salary for which that particular contribution rate was paid for each full year of elected service credit. Fractional years of elected service credit will be added to the years of elected service for which the highest contribution rate was paid and rounded up therein, if applicable, for the computation of the retirement benefit.

590:10-7-13. Filing for retirement and Initial retirement benefit

(a) It is the responsibility of all members to file a notice of retirement form with the System at least sixty (60) days but not more than one hundred eighty (180) days prior to the member's requested effective retirement date. Any member who has previously filed an application for vested benefit form will be considered to have met the sixty (60) day notice requirement; however, it is the responsibility of any such vested member to file a retirement form selecting the type of benefit to be paid prior to the member's requested retirement date. All retirement forms shall be prescribed, produced and approved by the System in order to constitute proper notice and retirement selection.

(b) The sixty (60) day notice requirement can be waived by application to the ~~Board of Trustees~~ Executive Director. The application for waiver must state the reason for the request and the decision to grant ~~of~~ or deny the waiver ~~is at the sole discretion of the Board~~ shall be made by the Executive Director. Upon request of the member, the Board may review at its next regular meeting any denial of a waiver by the Executive Director. Members are presumed to be familiar with the plan provisions and aware of the notice requirement and the ~~Board~~ Executive Director will grant the waiver only for good cause shown. Good cause is generally shown in cases of an unforeseen hardship, such as illness of the member or a member's family, ~~or~~ a reduction in force, ~~or~~ layoff of employment, or other unexpected change in job status. Good cause is also generally shown in cases of error or delay on the part of the employer and the error or delay is due to no fault of the member.

(c) No retirement benefits are payable until the System verifies that the member has been removed from the payroll; therefore, the initial retirement benefit payment to new retirees shall be made at the end of the month following the month of retirement. Two benefit payments will be made at that time representing the month of retirement and the current month. Following this initial verification period, retirement benefits will be payable each month on the last day of that month.

(d) No retirement benefits shall be payable until the System receives a properly completed retirement form requesting such benefits. Unless otherwise specifically provided by law or by these rules, no benefits shall be payable retroactively for any time period prior to receiving the member's properly completed retirement form regardless of when the member may have become eligible for such benefits. The requested retirement date of the member shall be made in accordance with the requirements of this section.

590:10-7-15. Post-retirement employment - calculation of benefits and service

(a) A year of post-retirement service shall be determined as 2076 hours of participation. All retired members who have post-retirement service with a participating employer and are eligible for an additional monthly benefit on or after January 1, 2000, pursuant to 74 O.S. ~~99 Supp. Section §914 (E)~~ § 914(E) shall have said additional benefit calculated using the actual hours worked and reported and the actual compensation reported for which contributions have been paid for each 2076 hour period. Each 2076 hour period shall be calculated separately and benefits added each January 1 as appropriate. All applicable option and early retirement reductions selected by the member at the time of retirement shall be applied to the additional benefit.

(b) The initial addition of post-retirement benefits shall be made effective with the January, 2000 benefit payment. The additional benefits shall be cumulative and paid for the initial period to the extent OPERS can identify and verify post-retirement participation. Post-retirement employment for which the retired member has previously been granted additional benefits or for which a refund of contributions has been made will not be included.

(c) The addition of post-retirement benefits shall be available to retired members who remain members on or after July 1, 1999. Joint Annuitant benefits shall be increased only if the member would have otherwise been eligible for the increase in benefits.

(d) For those retired members who have returned to employment with a participating employer and waived receipt of their monthly retirement benefit pursuant to 74 O.S. ~~Section 914 (E)~~ § 914(E), retirement benefits will be recalculated only upon termination of employment after completion of thirty-six (36) consecutive months of full-time-equivalent employment, as that term is defined under 590:10-3-6 of these rules.

590:10-7-18. Post-retirement employment - eligibility

(a) **Retiree subject to restrictions.** Returning to work for a participating employer may affect the retirement benefit of a retiree. A retiree returning to work for a participating employer is subject to various state and federal restrictions, including, but not limited to, the requirements set forth in 74 O.S. § 914 and certain Internal Revenue Service regulations.

(b) **Bona fide termination of employment.** Prior to the payment of any retirement benefit to a member, the participating employer shall certify in writing to the System that the member has terminated their employment. Termination of employment shall be governed by guidelines and regulations set forth by the Internal Revenue Service, and shall generally mean the member must have experienced a bona fide separation, severance or termination of employment or service in which the employer and employee relationship is completely severed. Changing from full-time to part-time employment with the same participating employer does not qualify as a bona fide termination.

(c) **Pre-arranged rehires.** If any agreement is made between the employee and the employer prior to the retirement of the employee which would allow the employee to return to work for the same participating employer, the retirement of such employee shall not be considered a bona fide termination of employment. Upon discovery of such an agreement, the employee shall be subject to having the retirement benefits stopped pursuant to 74 O.S. § 914(D).

(d) **Independent contractors.**

(1) A retired member who provides services as an independent contractor to a participating employer shall not participate in the System. However, the employer must submit a copy of the contract to OPERS for approval in advance of the effective date of the contract. The contract must be a true contract labor situation where the individual engages to perform certain services according to his or her own method and manner, free from control and direction of the employer in the performance of the service except the result thereof. Review of the contract shall include, but not be limited to:

(A) the degree of the right to control or supervise the work of the individual;

(B) payment of self-employment taxes;

(C) whether any benefits or leave time are paid;

(D) the nature and length of the contract;

(E) whether the work is part of the regular business of the employer, and;

(F) the right of either party to terminate the relationship without liability.

(2) If an individual after retirement is doing the same work for the same employer as the individual did prior to retirement, the System will consider the individual to be an employee and not an independent contractor. In no event will an employment contract be accepted by the System if it is determined that the contract was arranged or agreed to prior to the retirement of the employee. In such cases, the System will consider the relationship to be that of employer and employee, and the employer and employee will be subject to the laws and rules regarding post-retirement employment.

SUBCHAPTER 19. MEDICARE GAP BENEFIT OPTION

590:10-19-2. Definitions

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

"Board" means the Board of Trustees for the Oklahoma Public Employees Retirement System.

"Eligible Member" means a member of the System who retires on or after the Option Effective Date and who is not Medicare-eligible at the time of retirement, except as otherwise provided in this Subchapter.

"Medicare Gap Benefit" means an adjusted retirement benefit which is greater than the member's Regular Retirement Benefit for months of payments prior to ~~becoming~~ and including the month the member becomes Medicare-eligible and an actuarially reduced benefit which is less than the member's Regular Retirement Benefit for months of payments after becoming Medicare-eligible and for the remaining lifetime of the member.

"Medicare Gap Benefit Election" means an irrevocable election made by an Eligible Member prior to his or her effective date of retirement to receive the alternative benefit option payable pursuant to this Subchapter.

"Medicare-eligible" means age 65 or older, or such other age at which a member becomes eligible for Medicare benefits under federal law in effect at the time a member applies for an OPERS retirement benefit. For purposes of this Subchapter, age is calculated as of the first day of the month of birth. For example, a member born September 15, 1940, is considered to be 65 and Medicare-eligible on or after September 1, 2005.

"Minimum Medicare Gap Benefit" means a gross monthly benefit payment of $200.00 per month after all applicable actuarial reductions for either the Pre-Medicare benefit or the Post Medicare benefit.

"Option Effective Date" means May 1, 2006, which is the date when the System made the Medicare Gap Benefit option available to Eligible Members.

"Post Medicare Benefit" means the actuarially reduced monthly benefit payment for all months of retirement after the member becomes Medicare-eligible.

"Pre-Medicare Benefit" means the increased monthly benefit payment for all months of retirement prior to and including the month the member ~~becoming~~ becomes Medicare-eligible.

"Pre-Medicare Increase" means the amount added to the Regular Retirement Benefit to equal the Pre-Medicare Benefit.

"Regular Retirement Benefit" means the monthly retirement benefit that the Eligible Member would receive absent the Medicare Gap Benefit Election, which includes the actuarial adjustments as a result of the member's election of early retirement and/or survivor benefit options. It does not include amounts refunded of additional contributions paid to a member in the form of a limited retirement benefit under 74 O.S. § 910.5.

"System" or "OPERS" means the Oklahoma Public Employees Retirement System.

590:10-19-3. Medicare Gap Benefit option

(a) An alternate retirement benefit option is available to members of the Oklahoma Public Employees Retirement System provided an election form is properly completed and filed with the System after the Option Effective Date and prior to the member's effective retirement date. This alternate benefit option shall be called the Medicare Gap Benefit option. The Medicare Gap Benefit option is intended to permit certain members of the System to elect to receive an increased retirement benefit amount to help cover the cost of the health insurance premiums prior to the time that the member becomes Medicare-eligible, however, the Medicare Gap Benefit may not equal or cover the entire cost of the member's actual health insurance premiums.

(b) As a result of the passage of Section 2 of Enrolled Senate Bill 1112 from the 1st Session of the 51st Oklahoma Legislature (2007), members electing the Medicare Gap Benefit Option with a retirement effective date on or after July 1, 2007, shall have the Medicare Gap Benefit determined in accordance with these rules.

(c) Despite any provision to the contrary, all members who made the Medicare Gap Benefit Election with a retirement effective date from May 1, 2006, the Option Effective Date, through June 30, 2007, Medicare Gap Benefit means an adjusted retirement benefit which is greater than the member's Regular Retirement Benefit beginning with the first retirement benefit payment through December of the year the member becomes Medicare-eligible. Beginning in January of the year following such year that the member becomes Medicare-eligible, the retirement benefit will be actuarially reduced making the member's benefit less than the Regular Retirement Benefit for the remaining lifetime of the member.

[OAR Docket #08-571; filed 4-4-08]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 15. UNIFORM RETIREMENT SYSTEM FOR JUSTICES AND JUDGES

[OAR Docket #08-572]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. General Provisions
590:15-1-10. Purchase price payments [AMENDED]

AUTHORITY:
Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S. §§ 909; 20 O.S., §§ 1103G, 1108

DATES:
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December 3, 2007 through January 15, 2008
Public hearing:
January 17, 2008
Adoption:
January 17, 2008
Submitted to Governor:
January 22, 2008
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January 22, 2008
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January 22, 2008
Gubernatorial approval:
February 13, 2008
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2008
Final adoption:
March 27, 2008
Effective:
May 11, 2008

SUPERSEDED EMERGENCY ACTIONS:
N/A

INCORPORATIONS BY REFERENCE:
N/A

ANALYSIS:
The amendment to 590:15-1-10 allows repayment of withdrawn contributions if the member had previously stopped making installment payments on such repayment. This amendment would allow the member, upon returning to service, to repay the remaining balance of withdrawn contributions in a one-time lump sum amount plus interest.

CONTACT PERSON:
Joseph A. Fox, General Counsel, Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118, 405-858-6737

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2008:

SUBCHAPTER 1. GENERAL PROVISIONS

590:15-1-10. Purchase price payments

(a) An active member of the System may elect the payment of the actuarial purchase price, the repayment of a previous withdrawal, or any other purchase or repayment permitted and authorized by the statutes governing the System, to be amortized in monthly installments to the extent allowed by law.

(1) A payment schedule may be established allowing the member to make monthly payments through payroll deductions by the member's employer if the employer agrees to make the deductions and remit payments to the System. Payments remitted by an employer for its employees must be kept separate from employer's regular retirement contributions or any other payments to the System including Deferred Compensation. Such payments

do not qualify as "pre-tax" contributions under "employer pick-up" provisions of Section 414(h) of the Internal Revenue Code.

(2) The installment payment schedule provided for in this section must be in monthly increments not to exceed sixty (60) months. The minimum total monthly payment is $25.00. The member shall be responsible for maintaining the payment schedule. The payment due date will be based on the payroll schedule set by the member's employer. An installment not paid within sixty (60) days of the due date will result in termination of the installment payment schedule with the member given the option of paying the balance of the actuarial cost or receiving partial credit for payments made under the installment schedule as provided for in subsection (4) of this section.

(3) The monthly payment will be determined by amortizing the total amount due for the service to be purchased over the period of the installment schedule using an interest rate equal to the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings for the year in which the payment schedule is commenced.

(4) ~~If~~ Except as provided in subsection (8) of this section, if the installment payment is terminated for any reason, including termination of employment, death of the member or by cessation of payments, the member or ~~his~~ the beneficiary of the member will have the option of paying the remaining balance within six (6) months. If the balance is not paid, the member will receive credit for service prorated for only the principal amount paid and rounded to the last full month paid for. No refunds will be paid to the member.

(5) Credit for service purchased on an installment schedule will not be added to the member's account until the entire balance is paid, except as provided for in subsection (4) of this section. All payments must be completed in the month prior to the effective retirement date of the member. If any member or beneficiary elects to pay the balance during the ~~6~~ six (6) month period provided for in Subsection (4) of this Section, no benefits will be payable until the completion of said ~~6~~ six (6) month period, or receipt of a signed waiver. In no event will retroactive benefit payments be made, and the effective retirement date will be adjusted to the first day of the month following the completion of payments or receipt of waiver.

(6) Payments may be made directly to the System by the member or beneficiary if the member is in an unpaid leave status, if the payroll is not sufficient to handle the entire payment, in the event of payroll error where employer fails to withhold the proper amount or during the six (6) month period referred to in subsection (4) of this Section.

(7) ~~If~~ Except as provided in subsection (8) of this section, if the purchase is terminated for any reason, the purchase cannot be made at anytime in the future, following the ~~6~~ six (6) month option referred to in Subsection (4) of this Section. By failing to complete this purchase, the member or beneficiary forfeits the right to the purchase at any other time.

(8) If the installment payment for the repayment of a previous withdrawal is terminated for any reason, the member, upon returning to employment and meeting the eligibility requirements for membership, may pay the remaining principal balance at any time prior to the month of the effective retirement date. The total due shall be the unpaid principal balance, plus interest pursuant to 20 O.S. § 1103C, calculated from the date of the last installment payment received and paid in a one-time lump sum amount.

(b) Effective January 1, 2002, in lieu of installment payments, an active member may elect to make the payment of the actuarial purchase price, or any other eligible purchase or repayment permitted and authorized by the statutes governing the System by use of a direct trustee to trustee transfer from a 457 deferred compensation plan or a 403(b) tax sheltered annuity program.

(c) Effective January 1, 2002, in lieu of installment payments or a direct transfer, an active member may elect to make the payment of the actuarial purchase price, repayment of a previous withdrawal, or any other eligible purchase or repayment permitted and authorized by the statutes governing the System by a rollover. The payment may be made by participant rollover contributions and/or direct rollovers of eligible rollover distributions made after December 31, 2001, from the following:

(1) a qualified plan described in section 401(a) or 403(a) of the Internal Revenue Code;

(2) an annuity contract described in section 403(b) of the Internal Revenue Code;

(3) an eligible plan under section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state; or

(4) a participant rollover contribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includable in gross income.

[OAR Docket #08-572; filed 4-4-08]

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code.*

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2008-15A.

AMENDED EXECUTIVE ORDER 2008-15 OF MARCH 27, 2008

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the power vested in me by Section 2 of Article VI of the Oklahoma Constitution hereby declare the following:

1. Severe storms and flooding beginning March 17, 2008, and continuing through March 23, 2008, have caused extensive damage to public and private properties within the State of Oklahoma; and said damages have caused an undue hardship on the citizens of this state.

2. Two additional counties are added to the declaration: Hughes and Pawnee.

3. This Executive Order amends Executive Order 2008-15 because of the on-going state of emergency which has existed since March 17, 2008. The Executive Order shall be effective from and including the date Executive Order 2008-15 expires until the end of thirty (30) days after the filing of this Executive Order.

Copies of this Executive Order shall be distributed to the Director of Emergency Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 11 day of April, 2008.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #08-656; filed 4-14-08]

1:2008-16.

EXECUTIVE ORDER 2008-16

I, Brad Henry, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Tuesday, April 8, 2008 to honor Army Staff Sergeant Christopher M. Hake an Oklahoma resident, who died on Monday, March 24, 2008, at age 26 while serving in Iraq.

This executive order shall be forwarded to the Director of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 2nd day of April, 2008.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
Kathy Jekel
Acting Assistant Secretary of State

[OAR Docket #08-559; filed 4-2-08]

1:2008-17.

EXECUTIVE ORDER 2008-17

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the power vested in me by Section 2 of Article VI of the Oklahoma Constitution, hereby declare the following:

1. Tornadoes, severe storms and flooding beginning April 9, 2008, and continuing have caused extensive damage to public and private properties within the State of Oklahoma; and said damages have caused an undue hardship on the citizens of this state.

2. It may be necessary to provide for the rendering of mutual aid assistance among the State and political subdivisions of the State with respect to carrying out disaster emergency functions during the continuance of the State emergency pursuant to the provisions of the Oklahoma Emergency Management Act of 2003.

3. There is hereby declared a disaster emergency caused by the tornadoes, severe storms and flooding in the State of Oklahoma that threatens the lives and property of the people of this State and the public's peace, health and safety. The counties included in this declaration are:

Adair, Atoka, Bryan, Caddo, Canadian, Cherokee, Coal, Comanche, Choctaw, Garvin, Grady, Haskell, Hughes, Johnston, Kiowa, Latimer, LeFlore, Logan, Love, Marshall, Mayes, McClain, McCurtain, McIntosh, Muskogee, Okfuskee, Oklahoma, Okmulgee, Ottawa, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Rogers, Seminole, Sequoyah, Tulsa and Wagoner.

This declaration may be amended to add counties as conditions warrant.

4. The State Emergency Operations Plan has been activated and resources of all State departments and agencies available to meet this emergency are hereby committed to the reasonable extent necessary to protect lives and to prevent, minimize, and repair injury and damage. These efforts shall be coordinated by the Director of the Department of Emergency Management with comparable functions of the federal government and political subdivisions of the State.

5. State agencies, in responding to this disaster emergency, may make necessary emergency acquisitions to fulfill the purposes of this proclamation without regard to limitations or bidding requirements on such acquisitions.

6. This Executive Order shall terminate at the end of thirty (30) days.

Copies of this Executive Order shall be distributed to the Director of Emergency Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 11 day of April, 2008.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #08-657; filed 4-14-08]