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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 175. STATE BOARD OF COSMETOLOGY CHAPTER 10. LICENSURE OF COSMETOLOGISTS, SCHOOLS AND RELATED ESTABLISHMENTS

[OAR Docket #08-1370]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 7. Sanitation and Safety Standards For
Cosmetology Establishments, Salons and Schools

175:10-7-25 [AMENDED]

175:10-7-29 [NEW]

175:10-7-30 [NEW]

SUMMARY:

The proposed revision to 175:10-7-25 would prohibit fish pedicures or other cosmetology procedures using fish or animals. The proposed new rules establish specific procedures for cleaning and disinfecting pedicure equipment. Many cosmetology establishments are interested in offering fish pedicures, a procedure which involves the use of certain species of fish to nibble or suck dead skin from the feet. The procedure poses potential risks to the health and safety of customers and the environment, and is not amenable to existing effective sanitization procedures.

The new rules establish that use of exfoliating substances or devices that affect more than the outermost layer of skin cells is prohibited and is beyond the scope of practice of licensees. Current board rules are unclear about the extent of the scope of practice of licensees in regard to the use of certain substances and devices to perform facial procedures. The proposed new rule is intended to clarify the scope of practice of licensees in regard to certain facial procedures. The rules are needed to clarify what substances and devices may be used in cosmetology establishments by cosmetology licensees.

The intended effect of the revisions and new rules is to protect the public from potentially unsafe and unsanitary cosmetology procedures performed in cosmetology establishments regulated by the State Board of Cosmetology.

AUTHORITY:

59 O.S. § Section 199.3 B(1); State Board of Cosmetology

COMMENT PERIOD:

Written and oral comments will be accepted until the conclusion of the public rules comment hearing on Monday, January 26, 2009. Comments may be submitted to Sherry

Lewelling, Executive Director, 2401 NW 23rd Street, Suite 84,
Oklahoma City, OK 73107.

PUBLIC HEARING:

A rules hearing is scheduled for Monday, January 26, 2009 at 9:00 a.m. at 2401 NW 23rd Street, Suite 84, Oklahoma City, OK 73107. Persons wishing to provide oral comment must sign in at the door no later than 9:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Board of Cosmetology requests that all business entities that may be affected by the proposed rules provide the Board, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, or indirect costs such as equipment, construction, revenue loss or other costs expected to be incurred due to compliance with the proposed new rules.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Oklahoma State Board of Cosmetology, 2401 NW 23rd Street, Suite 84, Oklahoma City, Oklahoma. Copies are also available on the State Board of Cosmetology website at www.cosmo.state.ok.us.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared and available for review on and after December 15, 2008 at the Board office at 2401 NW 23rd Street, Suite 84, Oklahoma City, OK.

CONTACT PERSONS:

Sherry Lewelling, Executive Director (405) 521-5441 and
Jennifer McRee, Principal Assistant (405) 522-7616.

[OAR Docket #08-1370; filed 11-12-08]

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

[OAR Docket #08-1417]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 13. Student Assessment

210:10-13-4. Test security and validity [AMENDED]

210:10-13-10. Requests to view or take possession of
documents [AMENDED]

Notices of Rulemaking Intent

210:10-13-11. Testing students with disabilities
[AMENDED]

210:10-13-18. Oklahoma School Accountability System
[AMENDED]

SUMMARY:

The proposed rule amendments bring the present Oklahoma School Testing Program (OSTP) into line with changes in state and federal statute regarding student assessment.

AUTHORITY:

70 O.S. § 3-104, State Board of Education

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., February 25, 2009, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, February 26, 2009, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on December 30, 2008.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #08-1417; filed 11-25-08]

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

[OAR Docket #08-1421]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 13. Student Assessment

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

SUMMARY:

The proposed rule amendments describe the requirements for school districts and the State Department of Education regarding remediation of students who do not attain at least a satisfactory or proficient score on the seventh grade criterion-referenced tests in reading and mathematics, the eighth grade criterion-referenced tests in reading and mathematics, and the end-of-instruction exams. Additionally, the proposed rule amendments provide a process for school districts and the State Board of Education to apply exceptions and exemptions to the graduation requirements related to end-of-instruction exams, and clarifies procedures of the Oklahoma School Testing Program (OSTP).

AUTHORITY:

70 O.S. § 3-104, State Board of Education

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., January 21, 2009, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, January 22, 2009, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on December 30, 2008.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #08-1421; filed 11-25-08]

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

[OAR Docket #08-1416]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED 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]

SUMMARY:

The proposed rule amendments will eliminate the need for school sites to provide a permanent location for the mathematics laboratory.

AUTHORITY:

70 O.S. § 3-104, State Board of Education

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., February 25, 2009, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, February 26, 2009, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on December 30, 2008.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #08-1416; filed 11-25-08]

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

[OAR Docket #08-1419]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 33. Celebrate Freedom Week

210:15-33-2. Celebrate Freedom Week requirements [AMENDED]

SUMMARY:

The proposed rule amendments relate to grade appropriate instruction during Celebrate Freedom Week.

AUTHORITY:

70 O.S. § 3-104, State Board of Education

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., February 25, 2009, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, February 26, 2009, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on December 30, 2008.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #08-1419; filed 11-25-08]

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

[OAR Docket #08-1420]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Priority Academic Student Skills Part 13. The Arts

210:15-3-114.2. Definitions for music [AMENDED]

210:15-3-115. The arts for grade 1 [AMENDED]

210:15-3-116. The arts for grade 2 [AMENDED]

210:15-3-117. The arts for grade 3 [AMENDED]

210:15-3-118. The arts for grade 4 [AMENDED]

Notices of Rulemaking Intent

210:15-3-119. The arts for grade 5 [AMENDED]

210:15-3-120. The arts for grade 6 [AMENDED]

210:15-3-121. The arts for grade 7 [AMENDED]

210:15-3-122. The arts for grade 8 [AMENDED]

SUMMARY:

The proposed rule amendments provide additional clarity and detail to the Priority Academic Student Skills, Oklahoma's core curriculum. The changes reflect terminology in common usage within the music teaching profession and align from grade-to-grade certain objectives within the elementary music standard.

AUTHORITY:

70 O.S. § 3-104, State Board of Education

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., February 25, 2009, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, February 26, 2009, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on December 30, 2008.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #08-1420; filed 11-25-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 20. STAFF

[OAR Docket #08-1412]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 1. General Teaching Certificate Requirements

210:20-9-9. Kinds, types, classes and processing fees of certificates [AMENDED]

SUMMARY:

The proposed rule amendments will increase the processing charge for receiving a teaching license/certificate.

AUTHORITY:

70 O.S. § 3-104, State Board of Education

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., January 21, 2009, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, January 22, 2009, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on December 30, 2008.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #08-1412; filed 11-25-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 20. STAFF

[OAR Docket #08-1413]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 9. Teacher Certification

210:20-9-102. Career development program for paraprofessionals [AMENDED]

SUMMARY:

The proposed rule amendments, in accordance with statutory requirements at 70 O. S. § 6-127A, amend the career development program for paraprofessionals and adds additional requirements for certification of paraprofessionals.

AUTHORITY:

70 O.S. § 3-104, State Board of Education

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., February 25, 2009, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, February 26, 2009, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on December 30, 2008.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #08-1413; filed 11-25-08]

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF**

[OAR Docket #08-1415]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Professional Standards: Teacher Education and Certification
Part 9. Teacher Certification
210:20-9-99.1. National certification bonus for school psychologists, speech language pathologists, and audiologists. [AMENDED]

SUMMARY:

The proposed rule amendments delete the full-time requirement for nationally certified psychologists who are nationally certified by the National School Psychology Certification Board, or a speech-language pathologist or audiologist who holds a Certificate of Clinical Competence awarded by the American Speech-Language Hearing Association and are eligible for the bonus prescribed in 70 O. S. § 6-204.2 and 70 O. S. § 6-206.

AUTHORITY:

70 O.S. § 3-104, State Board of Education

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., February 25, 2009, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, February 26, 2009, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on December 30, 2008.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #08-1415; filed 11-25-08]

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 30. SCHOOL FACILITIES AND TRANSPORTATION**

[OAR Docket #08-1418]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Transportation
210:30-5-1. District operation and management [AMENDED]

Notices of Rulemaking Intent

SUMMARY:

New school bus dealers submit certification to the Oklahoma State Department of Education that all new buses sold meet or exceed all national and state specifications and safety standards for the date of manufacture. These proposed rule amendments will prohibit school districts from purchasing used or previously owned buses unless they are certified to meet or exceed the specifications and safety standards for the date of manufacture. State Transportation Aid shall be withheld from any school district that purchases buses without the required certification.

AUTHORITY:

70 O.S. § 3-104, State Board of Education

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., February 25, 2009, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, February 26, 2009, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on December 30, 2008.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #08-1418; filed 11-25-08]

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

[OAR Docket #08-1414]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and Technology Schools
Part 21. Standard XI: Accreditation Status
210:35-3-201. Statement of the standard [AMENDED]

SUMMARY:

The proposed rule amendments outline how an accredited school site shall meet all regulatory and statutory requirements. The changes are in keeping with new statutory language concerning school sites on the school improvement list.

AUTHORITY:

70 O.S. § 3-104, State Board of Education

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., February 25, 2009, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, February 26, 2009, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on December 30, 2008.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #08-1414; filed 11-25-08]

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

[OAR Docket #08-1422]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 21. Alternative Instructional Delivery Systems

210:35-21-2. Alternative instructional delivery systems [AMENDED]

SUMMARY:

The purpose of the rule amendments is to provide regulations to any accredited public or private school site and/or district in the State of Oklahoma with regard to alternative instructional delivery systems.

These proposed amendments will define the full time virtual student and outlines the plan the district must submit to the State Board of Education.

AUTHORITY:

70 O.S. § 3-104, State Board of Education

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., January 21, 2009, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, January 22, 2009, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on December 30, 2008.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #08-1422; filed 11-25-08]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #08-1409]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

- Subchapter 9. Excess Emission Reporting Requirements
- 252:100-9-1. Purpose [AMENDED]
- 252:100-9-1.1. Applicability [NEW]

252:100-9-2. Definitions [AMENDED]

252:100-9-3.1. Excess emission reporting requirements [AMENDED AND RENUMBERED TO 252:100-9-7]

252:100-9-3.3. Demonstration of cause [AMENDED AND RENUMBERED TO 252:100-9-8]

252:100-9-7. Excess emission reporting requirements [NEW]

252:100-9-8. Affirmative defenses [NEW]

Subchapter 33. Control of Emission of Nitrogen Oxides

252:100-33-1.1. Definitions [AMENDED]

252:100-33-1.2. Applicability [AMENDED]

252:100-33-2. Emission limits [AMENDED]

SUMMARY:

The Department is proposing to amend OAC 252:100-9, Excess Emission Reporting Requirements, to clarify and revise its requirements, and to make them more compatible with EPA guidelines. The revised requirements establish an Affirmative Defense for certain excess emissions occurring during periods of startup, shutdown or malfunction. The revisions also provide an exception to the immediate notice requirement set forth in this subchapter for certain excess emissions that are not likely to pose a significant threat to human health or the environment.

The Department is proposing to revise OAC 252:100-33, Control of Emission of Nitrogen Oxides, to resolve issues regarding emission standards for nitrogen oxides from fuel-burning equipment. The changes clarify what types of fuel are covered, address emission standards for fuel-burning equipment that uses more than one type of fuel and address equipment with technological limitations.

AUTHORITY:

Environmental Quality Board and Air Quality Advisory Council powers and duties, 27A O.S., §§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, 27A O.S., §§ 2-5-101 *et seq.*

COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on January 21, 2009. For comments received at least five (5) business days prior to the Council meeting, staff will post written responses on the Department's web page at least one (1) day prior to the Council meeting. Copies of the written responses will be provided to the Council and the public at that Council meeting. Oral comments may be made at the January 21, 2009, hearing and at the February 27, 2009, Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, January 21, 2009, at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board at 9:30 a.m. on Friday, February 27, 2009, at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

These hearings shall also serve as public hearings to receive comments on the proposed revisions to the State

Notices of Rulemaking Intent

Implementation Plan (SIP) under the requirements of 40 C.F.R. § 51.102 of the EPA regulations and 27A O.S., § 2-5-107(6)(c).
REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Department requests that business entities or any other members of the public affected by these rules provide the Department, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COPIES OF PROPOSED RULES:

The proposed rules are available for review 30 days prior to the hearing at the Air Quality Division of the Department at http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm, or copies may be obtained from the Department by calling Cheryl E. Bradley, Environmental Programs Manager, at (405) 702-4100.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained by contacting Cheryl E. Bradley at (405) 702-4100.

CONTACT PERSON:

Please send written comments on the proposed rule changes to Cheryl E. Bradley at cheryl.bradley@deq.ok.gov. Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl Bradley. The Air Quality Division FAX number is (405)702-4101.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405)702-4216. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only

[OAR Docket #08-1409; filed 11-24-08]

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

[OAR Docket #08-1390]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties
Part 55. Respite Care
317:30-5-515. through 30-5-519.[AMENDED]

(Reference APA WF # 08-03A)

SUMMARY:

Rules for the Developmental Disabilities Services Division (DDSD) Home and Community-Based Services (HCBS)

Waivers are revised to provide current provisions for respite care for persons with mental retardation and certain persons with related conditions. Respite care options and limits are clarified; specifically, DDSD SoonerCare members will not be eligible for respite care when in OKDHS custody and out-of-home placement funded by OKDHS Children and Family Services Division. Agency companion service rules are amended to add another level of support for individuals who require additional professional level support to remain in an agency companion setting due to pervasive behavioral or emotional challenges. Other revisions delineate agency companion services salary options, which include the contractor and employer models, and use of specific OKDHS forms.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1390; filed 11-21-08]

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

[OAR Docket #08-1393]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties
Part 35. Rural Health Clinic
317:30-5-356. [AMENDED]
(Reference APA WF #08-11)

SUMMARY:

Rules are revised to eliminate the age and gender restrictions for SoonerCare members of 12 to 50 years who are eligible to receive family planning services. The revision removes the reference to age and gender, with the only limitation for otherwise eligible SoonerCare members being reproductive capability. The less restrictive policy will enable the Oklahoma Health Care Authority to serve a larger population of members needing family planning services with the potential to result in fewer unwanted pregnancies among the SoonerCare population. The revision also brings policy into current practice of payment based on fee-for service basis.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes, 42 CFR 440.40

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1393; filed 11-21-08]

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

[OAR Docket #08-1394]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-22. through 30-5-22.1 [AMENDED]
(Reference APA WF # 08-12)

SUMMARY:

Rules are revised to: (1) allow reimbursement of one non stress test and/or one biophysical profile to a Maternal Fetal Medicine (MFM) specialist without requiring a prior authorization; and (2) remove the OB signature requirement from the high risk OB treatment plan form unless he or she wishes to request authorization of the ante partum management fee.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.250(p).

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular

Notices of Rulemaking Intent

business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Policy Director, Policy Development, 405-522-7153.

[OAR Docket #08-1394; filed 11-21-08]

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

[OAR Docket #08-1395]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties
Part 33. Transportation by Ambulance
317:30-5-336.5. [AMENDED]
(Reference APA WF # 08-14)

SUMMARY:

Rules are revised to remove the Medicare Ambulance Fee schedule (AFS) and replace it with a general statement that refers providers to the Oklahoma Health Care Authority's fee schedule for SoonerCare compensable services.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 447.201; 42 CFR 447.204

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar

amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Policy Director, Policy Development, 405-522-7153.

[OAR Docket #08-1395; filed 11-21-08]

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

[OAR Docket #08-1396]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-27. [NEW]
Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-11. [AMENDED]
Part 3. Hospitals
317:30-5-47. [AMENDED]
Part 35. Rural Health Clinics
317:30-5-361. [AMENDED]
Part 75. Federally Qualified Health Centers
317:30-5-664.10. [AMENDED]
Part 110. Indian Health Services, Tribal Programs, and Urban Indian Clinics (I/T/Us)
OAC 317:30-5-1090. [AMENDED]
(Reference APA WF # 08-15)

SUMMARY:

Rules are revised to add telemedicine for certain providers as a service delivery to members in rural areas, medically underserved areas, or geographic areas where there is a lack of local medical or psychiatric/mental health expertise.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through

5016 of Title 63 of Oklahoma Statutes; The Oklahoma Telemedicine Act of 1997; 42 CFR 410.78.

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Policy Director, Policy Development, 405-522-7153.

[OAR Docket #08-1396; filed 11-21-08]

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

[OAR Docket #08-1397]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-5.1. [AMENDED]

(Reference APA WF #08-16)

SUMMARY:

Rules are revised to clarify that payment of claims for SoonerCare services are paid according to the billed amount up to the maximum allowable amount. Without clarification,

billing for more than or less than the maximum amount allowed could result in a Payment Error Rate Measurement (PERM) audit exception and a disallowance of federal reimbursement from the Centers for Medicare and Medicaid Services (CMS).

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes, 42 CFR 431.950

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1397; filed 11-21-08]

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

[OAR Docket #08-1400]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties
Part 21. Outpatient Behavioral Health Services

Notices of Rulemaking Intent

317:30-5-241. [AMENDED]
(Reference APA WF # 08-26)

SUMMARY:

Agency rules are revised to remove language referring to the reimbursement methodology for PACT services. PACT services are currently reimbursed using a per diem rate inclusive of all services provided by the PACT team. The revised methodology is needed to comply with the Centers for Medicare and Medicaid Services and would reimburse PACT services using fee for service rates that correlate with each individual service which must be billed in fifteen minute increments. The proposed rule changes also update terminology which reflects recent changes in federal and state law and policy.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.130

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1400; filed 11-21-08]

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

[OAR Docket #08-1401]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. General Provider Policies

Part 1. General Scope And Administration

317:30-3-25. [AMENDED]

Subchapter 5. Individual Providers and Specialties

Part 9. Long Term Care Facilities

317:30-5-122. [AMENDED]

(Reference APA WF # 08-28)

SUMMARY:

SoonerCare rules are revised to limit payment of Medicare Part A to the Medicaid allowable for services in a skilled nursing facility. The change will pay only up to the Medicaid rate for Medicare crossover claims for Skilled Nursing care, which in effect will reduce these payments by approximately \$21 million. The state share for these payments will be used in support of the Medicaid rate components for regular nursing home care. Alternatively, the denied claim amounts for the crossovers are reimbursable by the Medicare program to the facilities as bad debt expense.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 USC 1902(a)(10) and 1905(p)(3) of the Social Security Act.

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1401; filed 11-21-08]

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

[OAR Docket #08-1403]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 25. Psychologists

317:30-5-275. [AMENDED]

(Reference APA WF # 08-31)

SUMMARY:

Agency rules are revised to allow for reimbursement for services provided by clinical psychology interns completing required internships and post doctoral fellows completing required supervision for licensure. These individuals are considered to be qualified to provide services by the state licensing board and are currently providing much needed psychiatric services in the academic training setting, without reimbursement. Revisions are needed to increase the agency's provider network of psychologists thereby increasing the access to desperately needed mental health services for SoonerCare members. Payment will be made to the licensed practitioner responsible for the SoonerCare member's care who is directly supervising the intern or post doctoral fellow. The revisions also require active participation and oversight by the licensed practitioner as well as specific documentation requirements.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, and Section 5003 through 5016 of Title 63 of Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m. at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1403; filed 11-21-08]

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

[OAR Docket #08-1404]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

317:30-5-22. [AMENDED]

Part 108. Nutrition Services

317:30-5-1076. [AMENDED]

(Reference APA WF # 08-32)

SUMMARY:

Rules are revised regarding nutritional services to permit two of the six hours allowed to be done in a group setting for pregnant members who are at risk or those who have been recently diagnosed with gestational diabetes.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.130

Notices of Rulemaking Intent

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Policy Director, Policy Development, 405-522-7153.

[OAR Docket #08-1404; filed 11-21-08]

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

[OAR Docket #08-1405]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 113. Living Choice Program [NEW]

317:30-5-1200. through 317:30-5-1206. [NEW]

(Reference APA WF # 08-34A)

SUMMARY:

Rules are revised to implement the Living Choice program created to promote community living for individuals with disabilities or long-term illnesses as authorized by Section

6071 of Public Law 109-171. With grant funding from the Centers for Medicare and Medicaid Services (CMS) under the Money Follows the Person (MFP) demonstration for a five year period, the agency will facilitate the transition of over 2,000 individuals from institutional settings to their own homes in the community and help rebalance Oklahoma's long-term care system. The MFP demonstration offers states greater flexibility to provide community based long-term care services that are not typically covered by Medicaid federal matching funds. Oklahoma will receive enhanced federal match to strengthen community based long-term care services and supports for individuals with disabilities and long-term illnesses. If this program is not implemented, many individuals who are at risk of being placed in or are currently living in an institutional setting will have no other alternative even though they could possibly be better served in their homes and communities, preserving their independence and ties to family and friends at a cost that is no greater than that of institutional care.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 6071 of Public Law 109-171

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Policy Director, Policy Development, 405-522-7153.

[OAR Docket #08-1405; filed 11-21-08]

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

[OAR Docket #08-1407]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties
Part 17. Medical Suppliers
317:30-5-216. [AMENDED]
(Reference APA WF # 08-36)

SUMMARY:

Rules are revised to remove obsolete prior authorization contact information.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes;

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Policy Director, Policy Development, 405-522-7153.

[OAR Docket #08-1407; filed 11-21-08]

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

[OAR Docket #08-1408]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties
Part 6. Inpatient Psychiatric Hospitals
317:30-5-95.33. [AMENDED]
(Reference APA WF #08-38)

SUMMARY:

Agency rules are revised to create a more lenient time frame within which a provider of inpatient behavioral health services must review an individual plan of care (IPC) for children residing in their facility. The rule was recently revised to address this issue but the language used led to confusion and the interpretation that more strenuous constraints had been placed on the providers, which was not the intent. The revisions herein establish a clearly defined time frame within which the providers have to submit their plans of care. Further revisions are incorporated due to superseding emergency rules previously approved on July 1, 2008 in APA WF # 08-07 and related to allowing for review of individual plans of care in an inpatient setting no less than every nine calendar days in acute care situations and no less than every 16 calendar days in the longer term treatment program or specialty Psychiatric Residential Treatment Facility (PRTF).

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes, and 42 CFR 440.160

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m. at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

Notices of Rulemaking Intent

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1408; filed 11-21-08]

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

[OAR Docket #08-1389]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 18. Programs of All-Inclusive Care for the Elderly

317:35-18-10. [AMENDED]

(Reference APA WF #08-01)

SUMMARY:

Agency rules are revised to allow for involuntary disenrollment of PACE program participants based upon certain actions of the participant's caregiver or guardian. The requested change is based on the experience of the PACE programs whose ability to safely and effectively care for participants is potentially compromised by the behavior and decisions of the participant's family and/or caregiver that jeopardizes the health or safety of others. The enrollment agreement includes in writing the terms of enrollment in PACE and the responsibilities of the participant and their family/caregivers at enrollment and annually thereafter. All efforts will be made to work with the family/caregiver to rectify situations where the family/caregiver is deemed to be jeopardizing the health or safety of others. It will be the policy of Cherokee Elder Care to initiate an involuntary disenrollment only after the Interdisciplinary Team has determined that

involuntary disenrollment is the only available course of action.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act and Section 5003 through 5016 of Title 63 of Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m. at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1389; filed 11-21-08]

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

[OAR Docket #08-1398]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Eligibility and Countable Income

Part 5. Countable Income and Resources

317:35-5-45. through 317:35-5-46. [AMENDED]

(Reference APA WF # 08-17)

SUMMARY:

SoonerCare eligibility rules are being revised to remove language regarding the consideration of resources when determining financial eligibility for individuals categorically related to Aid to Families with Dependent Children (AFDC) and pregnancy-related services. Effective December 1, 1997, the agency eliminated the asset test for SoonerCare applicants and members who are categorically related to AFDC or pregnancy-related services. Rules are being revised to remove language that implies that the resources of an individual are a factor that must be taken into account during the financial eligibility determination process for SoonerCare benefits. Revisions are needed to remove incorrect language that inadvertently remained in rules after the asset test was eliminated.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 435.201

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1398; filed 11-21-08]

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

[OAR Docket #08-1399]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Eligibility and Countable Income
Part 3. Non-Medical Eligibility Requirements
317:35-5-25. [AMENDED]
(Reference APA WF # 08-20)

SUMMARY:

SoonerCare eligibility rules regarding citizenship are revised to allow the use of tribal membership cards, Certificate of Degree of Indian Blood cards, and Oklahoma Voter Registration cards to verify citizenship and/or identity. Section 6036 of the Deficit Reduction Act of 2005 required states to obtain satisfactory documentary evidence of citizenship and identity in order to receive federal matching funds. Some SoonerCare members who are United States citizens by virtue of being born in the United States have lost eligibility for benefits and others have been denied benefits as they were unable to furnish a copy of their birth certificate or other documentation as outlined in existing rules. Eligibility rules are revised to include these other types of documents which may be more easily obtainable by the SoonerCare applicant than a birth certificate, particularly if the individual was born in a state other than Oklahoma. Additional revisions clarify that individuals who are classified as permanent non-immigrants includes persons from the Marshall Islands, the Republic of Palau and the Federated States of Micronesia.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 6036 of the Deficit Reduction Act of 2005 (P.L. 109-171)

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping,

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equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1399; filed 11-21-08]

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

[OAR Docket #08-1402]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 17. ADvantage Waiver Services
317:35-17-3. [AMENDED]

(Reference APA WF # 08-30)

SUMMARY:

ADvantage Waiver Services rules are revised to add an additional exception to the cost cap exception. The ADvantage program allows a specified number of persons to receive home and community based long-term care services who without such services would be institutionalized. Generally, the estimated annual cost of providing the individual's care in their home cannot exceed the annual cost of caring for that person in a nursing facility; however, the waiver regulations permit certain exceptions to the 100% nursing facility cost cap policy. Currently, policy lists five instances that might allow the individual to be approved for ADvantage services, even though the estimated services cost exceeds the expense of nursing facility care. Revisions would add an exception that would allow services only if approved by the OKDHS/Aging Services Division Director based on specific criteria as outlined in policy. Rules are also revised to replace the Administrative Agent with the OKDHS Aging Service Division as the approval source for ADvantage cost cap exceptions and replace or remove outdated language.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 441.302

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1402; filed 11-21-08]

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

[OAR Docket #08-1406]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 23. Living Choice Program [NEW]
317:35-23-1. through 317:35-23-4. [NEW]
(Reference APA WF # 08-34B)

SUMMARY:

Rules are revised to implement the Living Choice program created to promote community living for individuals with disabilities or long-term illnesses as authorized by Section 6071 of Public Law 109-171. With grant funding from the Centers for Medicare and Medicaid Services (CMS) under the Money Follows the Person (MFP) demonstration for a five year period, the agency will facilitate the transition of over 2,000 individuals from institutional settings to their own homes in the community and help rebalance Oklahoma's long-term care system. The MFP demonstration offers states greater flexibility to provide community based long-term care services that are not typically covered by Medicaid federal matching funds. Oklahoma will receive enhanced federal match to strengthen community based long-term care services and supports for individuals with disabilities and long-term illnesses. If this program is not implemented, many individuals who are at risk of being placed in or are currently living in an institutional setting will have no other alternative even though they could possibly be better served in their homes and communities, preserving their independence and ties to family and friends at a cost that is no greater than that of institutional care.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 6071 of Public Law 109-171

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Policy Director, Policy Development, 405-522-7153.

[OAR Docket #08-1406; filed 11-21-08]

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 40. DEVELOPMENTAL DISABILITIES SERVICES**

[OAR Docket #08-1391]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. ~~Client~~ Member Services

Part 1. Agency Companion Services

317:40-5-3. [AMENDED]

317:40-5-8. [AMENDED]

(Reference APA WF # 08-03B)

SUMMARY:

Rules for the Developmental Disabilities Services Division (DDSD) Home and Community-Based Services (HCBS) Waivers are revised to provide current provisions for respite care for persons with mental retardation and certain persons with related conditions. Respite care options and limits are clarified; specifically, DDSD SoonerCare members will not be eligible for respite care when in OKDHS custody and out-of-home placement funded by OKDHS Children and Family Services Division. Agency companion service rules are amended to add another level of support for individuals who require additional professional level support to remain in an agency companion setting due to pervasive behavioral or emotional challenges. Other revisions delineate agency companion services salary options, which include the contractor and employer models, and use of specific OKDHS forms.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m., at the Oklahoma Health Care Authority,

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4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1391; filed 11-21-08]

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

[OAR Docket #08-1392]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

317:45-1-3. [AMENDED]

(Reference APA WF # 08-09)

SUMMARY:

Agency rules are revised to include the Oklahoma Municipal Assurance Group (OMAG) as an approved carrier in the Insure Oklahoma/O-EPIC carrier definition. Because of the different authority under which OMAG operates, the group has not been included as an approved carrier for Insure Oklahoma/O-EPIC purposes. The OMAG is similar in operation to the Multiple Employer Welfare Arrangement (MEWA) which is presently defined in Insure Oklahoma/O-EPIC policy as an approved carrier. Because OMAG is not currently an approved carrier, an adverse action could potentially occur where healthy members or groups currently under OMAG begin to switch to approved carriers in order to aid in subsidizing health care premiums for qualified

individuals. By including OMAG as an approved carrier, excessive member migration will be prevented from occurring thereby helping to ensure stabilization among the carrier groups.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; House Bill 1225 of the 1st Session of the 51st Oklahoma Legislature; Section 1001 et seq. of Title 74 of Oklahoma Statutes

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

PUBLIC HEARING:

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Tywanda Cox, Interim Policy Director, Policy Development, 405-522-7153.

[OAR Docket #08-1392; filed 11-21-08]

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

[OAR Docket #08-1425]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULE:

325:20-1-2. Definitions [AMENDED]

SUMMARY:

The Commission's Ad Hoc Committee on Industry Safety Issues reviewed several national studies and presentations which indicated the detrimental use of toe grabs on Thoroughbreds. The information contained in those studies necessitates the need for regulating the use of toe grabs and other devices which have been shown to cause an increased rate of injury to the horse. This rule amendment provides definitions of the types of equipment.

AUTHORITY:

75 O.S., §303; Title 3A O.S. §204(A); Oklahoma Horse Racing Commission.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m., Friday, January 16, 2009, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

PUBLIC HEARING:

A public hearing will be held between the hours of 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:30 p.m. on Friday, January 16, 2009, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107. Anyone who wishes to present oral comment at the public hearing must sign a speaker's register.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Horse Racing Commission requests that business entities affected by this proposed rule provide the Commission, within the comment period, in dollar amounts, if possible, 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 rule. Business entities may submit this information in writing to the Commission, at the above address, before the close of the comment period on December 18, 2008

COPIES OF PROPOSED RULES:

A copy of the proposed rule amendment may be obtained from the Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared by December 15, 2008 may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

Bonnie Morris, Assistant to the Administrator, (405) 943-6472.

[OAR Docket #08-1425; filed 11-25-08]

**TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 45. MEDICATION AND EQUINE TESTING PROCEDURES**

[OAR Docket #08-1426]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULE:

325:45-1-6. Authorized medication [AMENDED]

SUMMARY:

The Commission's Ad Hoc Committee on Medication Rules proposes a rule amendment to include anabolic steroids as prohibited substances for the equine athlete except for four approved anabolic steroids [Stanozolol, Boldenone, Nandrolone and Testosterone] at plasma/serum levels below Commission-Sanctioned Thresholds. The rule amendment would also make the presence of Testosterone above the normal physiological state of the stallion, gelding or broodmare a Class III violation under the penalty guidelines. The rule amendment also addresses the Commission's plan to establish a procedure for out-of-competition screening for anabolic steroids, the cost of which would be the responsibility of the owner of the tested horse.

AUTHORITY:

75 O.S., §303; Title 3A O.S. §204(A); Oklahoma Horse Racing Commission.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m., Friday, January 16, 2009, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

PUBLIC HEARING:

A public hearing will be held between the hours of 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:30 p.m. on Friday, January 16, 2009, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107. Anyone who wishes to present oral comment at the public hearing must sign a speaker's register.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Horse Racing Commission requests that business entities affected by this proposed rule provide the Commission, within the comment period, in dollar amounts, if possible, 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 rule. Business entities may submit this information in writing to the Commission, at the above address, before the close of the comment period on December 18, 2008

COPIES OF PROPOSED RULES:

A copy of the proposed rule amendment may be obtained from the Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

Notices of Rulemaking Intent

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared by December 15, 2008 may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

Bonnie Morris, Assistant to the Administrator, (405) 943-6472.

[OAR Docket #08-1426; filed 11-25-08]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 1. FUNCTION AND STRUCTURE OF THE DEPARTMENT**

[OAR Docket #08-1427]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

340:1-1-18 [AMENDED]

Reference APA WF (08-17)

SUMMARY:

The proposed revisions to Subchapter 1 of Chapter 1 of Title 340 amend the rules to reflect current strategic planning practices.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and, in part, Section 162 of Title 56 of the Oklahoma Statutes; and Section 45.3 of Title 62 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008 through January 14, 2009 during regular business hours by contacting Millie Carpenter, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4508.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 14, 2009 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #08-1427; filed 11-25-08]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS**

[OAR Docket #08-1428]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 39. Planning, Research, and Statistics

340:2-39-1 [AMENDED]

Reference APA WF (08-18)

SUMMARY:

The proposed revisions to Subchapter 39 of Chapter 2 of Title 340 amend the rules to reflect role and purpose of the Office of Planning, Research, and Statistics (OPRS).

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and, in part, Section 162 of Title 56 of the Oklahoma Statutes; and Section 45.3 of Title 62 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008 through January 14, 2009 during regular business hours by contacting Millie Carpenter, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4508.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 14, 2009 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #08-1428; filed 11-25-08]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 15. STATE SUPPLEMENTAL PAYMENT**

[OAR Docket #08-1429]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

340:15-1-4 [AMENDED]
340:15-1-6 [AMENDED]

(Reference APA WF 08-19)

SUMMARY:

The proposed revisions to Chapter 15 amend the rules to: (1) add clarifying language addressing overpayments and calculating countable income and resources; (2) delineate information for greater clarity; and (3) add language regarding the ineligibility of fleeing felons for State Supplemental Payment (SSP).

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 161 et seq. of Title 56 of the Oklahoma Statutes; and Section 1611(e)(4) of Title XVI of the Social Security Act.

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008 through January 14, 2009 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 14, 2009 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #08-1429; filed 11-25-08]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 20. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)**

[OAR Docket #08-1430]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Low Income Home Energy Assistance Program

340:20-1-5 [AMENDED]
340:20-1-10 through 340:20-1-11
340:20-1-14

(Reference APA WF 08-20)

SUMMARY:

The proposed revisions to Subchapter 1 of Chapter 20 amend rules to: (1) update language to current terminology; (2) add clarifying language; (3) change the date claims are paid to the current payment schedule; and (4) remove reference to the percentage of the federal poverty level on which the allowable income levels are based.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 96.80 through 96.89 of Title 45 of the Code of Federal Regulations; and Public Law 97-35, as amended.

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008 through January 14, 2009 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 14, 2009 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #08-1430; filed 11-25-08]

Notices of Rulemaking Intent

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 40. CHILD CARE SERVICES BENEFITS

[OAR Docket #08-1431]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED 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]
340:40-7-3 through 340:40-7-3.1 [AMENDED]
340:40-7-5 through 340:40-7-10 [AMENDED]
340:40-7-12 through 340:40-7-13 [AMENDED]
- Subchapter 9. Procedures Relating to Case Changes
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]

(Reference APA WF 08-10 and 08-21)

SUMMARY:

The proposed revisions to Subchapters 3, 5, 7, 9, 10, and 13 of Chapter 40 amend the rules to: (1) remove internal procedures; (2) add clarifying language regarding when a new application is required; (3) reflect current appendices and form numbers; (4) add clarifying language regarding when clients must provide a statement from a licensed health care professional for a child over 13 in child care; (5) clarify requirements for the special needs rate; (6) remove enrichment as a need factor; (7) add clarifying language regarding the process to follow when a household member is temporarily absent; (8) add clarifying language regarding how child support income received for a minor parent is considered; (9) replace outdated language and terminology; (10) add clarifying language regarding the change of payee process; (11) refer payment information regarding in-home providers to the applicable appendix; (12) require assistant caregivers in large family homes to provide a copy of their Oklahoma State Bureau of Investigation (OSBI) background check to the Family Support Services Division (FSSD) Child Care Section; (13) add language that failing to report income from the child care business to the Family Support Services (FSS) worker is a child care contract violation for child care providers receiving assistance; and (14) add rules regarding citizenship for subsidized child care assistance.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; 45 Code of Federal

Regulations (CFR) Parts 98 and 99; Sections 203(a)(7), 207, 208, 212(d)(5), and 241(b)(3) of the Immigration and Nationality Act (INA) or [8 U.S.C. 1182, 1153, and 1157]; Section 501(e) of the Refugee Education Assistance Act of 1980; Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) or [8 U.S.C.1641(c)]; Trafficking Victims Protection Act of 2003; Section 71 of Title 56 and Section 20j of Title 74 of the Oklahoma Statutes; PRWORA of 1996, Public Law (P.L.) 104-193; and the Balanced Budget Act of 1997, P.L. 105-33.

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008 through January 14, 2009 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 14, 2009 at 5:00 p.m.

REQUESTS 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 to Laura Brown at the above address during the period from December 15, 2008 through January 14, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #08-1431; filed 11-25-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 50. FOOD STAMP SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

[OAR Docket #08-1432]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
340:50-1-1 through 340:50-1-3 [AMENDED]

- 340:50-1-5 through 340:50-1-6 [AMENDED]
- 340:50-1-9 [AMENDED]
- Subchapter 3. Application Process
- 340:50-3-1 [AMENDED]
- Subchapter 5. Non-Financial Eligibility Criteria
- Part 1. Household Definition
- 340:50-5-1 [AMENDED]
- 340:50-5-3 [AMENDED]
- 340:50-5-5 [AMENDED]
- 340:50-5-7 [AMENDED]
- 340:50-5-8.1 [AMENDED]
- Part 3. Special Households
- 340:50-5-25 through 340:50-5-26 [AMENDED]
- 340:50-5-29 [AMENDED]
- Part 5. Students, Strikers, Resident Farm Laborers, Migrant Households, Sponsored Aliens, and School Employees
- 340:50-5-46 [AMENDED]
- 340:50-5-49 [AMENDED]
- Part 7. Related Provisions
- 340:50-5-64 [AMENDED]
- 340:50-5-68 [AMENDED]
- Part 9. Work Registration
- 340:50-5-86 [AMENDED]
- 340:50-5-88 [AMENDED]
- 340:50-5-90 [AMENDED]
- 340:50-5-97 [AMENDED]
- Subchapter 7. Financial Eligibility Criteria
- Part 1. Resources
- 340:50-7-1 through 340:50-7-3 [AMENDED]
- 340:50-7-5 [AMENDED]
- 340:50-7-22 [AMENDED]
- 340:50-7-29 [AMENDED]
- 340:50-7-30 through 340:50-7-31 [AMENDED]
- Subchapter 9. Eligibility and Benefit Determination Procedures
- 340:50-9-1 [AMENDED]
- Subchapter 11. Special Procedures
- Part 1. Households Entitled to Expedited Service
- 340:50-11-3 through 340:50-11-4 [AMENDED]
- 340:50-11-23 through 340:50-11-24 [AMENDED]
- 340:50-11-27 [AMENDED]
- Part 12. Categorically Eligible Households
- 340:50-11-111 through 340:50-11-115 [AMENDED]
- Subchapter 13. Fair Hearings
- 340:50-13-3 through 340:50-13-4 [AMENDED]
- Subchapter 15. Overpayments and Fraud
- Part 1. Overpayments
- 340:50-15-1 through 340:50-15-6 [AMENDED]
- Part 3. Fraud
- 340:50-15-25 through 340:50-15-27 [AMENDED]

(Reference APA WF 08-07 and 08-22)

SUMMARY:

The proposed revisions to Subchapters 1, 5, 7, 9, 11, 13, and 15 of Chapter 50 amend the rules to: (1) update the name of the Food Stamp Program to the new federal name of Supplemental Nutrition Assistance Program (SNAP); (2) change the legal

authority used to administer the SNAP program from the Food Stamp Act of 1977 to the Food and Nutrition Act of 2008; (3) change all language regarding food stamps to food benefits; (4) update other language to current terminology; (5) add clarifying language; (6) include language that a telephone interview can be used for recertifications; (7) remove internal procedures from rules; (8) update form names and numbers; (9) remove consideration of resources as an eligibility factor for food benefit households defined as a categorically eligible household; (10) add how income from rental property is considered; (11) remove incorrect certification periods; (12) clarify able-bodied adults without dependents (ABAWD) certification periods; (13) add additional households as categorically eligible; (14) state whether the categorically eligible household is subject to income and resources rules; (15) remove redundant rules; (16) clarify how the recipient's eligibility status is determined when the recipient loses categorical eligibility status; (17) remove requirement that a notice is sent to the client when benefits have not been accessed for three months; (18) add clarifying information regarding repayment plans set by the court judiciary system; (19) remove language that Individual Retirement Accounts (IRAs) and some Keogh Plans are countable resources; and (20) add language that retirement plans and education accounts described in federal law are exempt as a resource.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Section 4104 of the Food, Conservation, and Energy Act of 2008 (P.L. 110-234); and the Food and Nutrition Act of 2008.

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008 through January 14, 2009 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 14, 2009 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #08-1432; filed 11-25-08]

Notices of Rulemaking Intent

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 60. REFUGEE RESETTLEMENT PROGRAM

[OAR Docket #08-1433]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

340:60-1-3 [AMENDED]

(Reference APA WF 08-08)

SUMMARY:

The purpose of the proposed revisions to Chapter 60 amend the rules to: (1) add language to allow certain Iraqi and Afghan persons admitted as special immigrants to be eligible for the Refugee Resettlement Program; (2) change language regarding the form used to declare alien status; and (3) change language to reflect current usage.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193); 45 Code of Federal Regulations Part 400, 62 Federal Register 61345-61350; Section 525 of Division G of P.L. 110-161 of the Consolidated Appropriations Act of 2008; Section 101(a)(27) of the INA [8 U.S.C. 1101(a)(27)]; and Section 1244 of P.L. 110-181 of the National Defense Authorization Act for Fiscal Year 2008.

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008 through January 14, 2009 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 14, 2009 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #08-1433; filed 11-25-08]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 70. SOCIAL SERVICES

[OAR Docket #08-1434]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 8. Supplemental Security Income - Disabled Children's Program (SSI-DCP)

340:70-8-1 [AMENDED]

(Reference APA WF 08-23)

SUMMARY:

The proposed revisions to Subchapter 8 of Chapter 70 amend rules to: (1) add rules regarding the Respite Voucher Program; and (2) revoke rules regarding enrichment child care since this service is no longer covered.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Section 501 of Title V, and Sections 1902 and 1905 of Title XIX of the Social Security Act.

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008 through January 14, 2009 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 14, 2009 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #08-1434; filed 11-25-08]

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

[OAR Docket #08-1435]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions of Child Welfare Services
 - Part 1. Scope and Applicability
 - 340:75-1-18. through 340:75-1-18.1 [AMENDED]
 - 340:75-1-18.4 [NEW]
 - Part 3. Child Welfare Confidentiality
 - 340:75-1-44 [AMENDED]
 - Part 10. Oklahoma Children's Services (OCS)
 - 340:75-1-152 [AMENDED]
 - 340:75-1-152.5 [AMENDED]
 - Subchapter 6. Permanency Planning
 - Part 1. General Provision
 - 340:75-6-4 [AMENDED]
 - Part 5. Permanency Planning Services
 - 340:75-6-31 [AMENDED]
 - Part 8. Role of the Child Welfare Worker
 - 340:75-6-48 [AMENDED]
 - 340:75-6-50 [AMENDED]
 - Part 11. Permanency Planning and Placement Services
 - 340:75-6-85 through 340:75-6-85.1 [AMENDED]
 - 340:75-6-85.6 [AMENDED]
 - 340:75-6-88 [AMENDED]
 - Subchapter 7. Foster Home Care
 - Part 2. Development of Resources
 - 340:75-7-24 [AMENDED]
 - Subchapter 8. Therapeutic Foster Care and Developmental Disabilities Services
 - Part 1. Therapeutic Foster Care
 - 340:75-8-6 through 340:75-8-9 [AMENDED]
 - Subchapter 11. Child Welfare Community-Based Residential Care
 - Part 17. Contracted Community-Based Residential Care Providers
 - 340:75-11-233.1 [AMENDED]
 - Part 19. Residential Diagnostic and Evaluation Services
 - 340:75-11-250 [AMENDED]
 - Part 22. Substance Abuse Treatment Services [NEW]
 - 340:75-11-275 [NEW]
 - Part 23. Specialized Community Homes
 - 340:75-11-289 [AMENDED]
 - Part 25. Non-funded and Funded Contracted Level B Placements
 - 340:75-11-300 [AMENDED]
 - Part 27. Residential Maternity Services
 - 340:75-11-320 [AMENDED]
 - 340:75-11-321 [AMENDED]
 - Part 29. Non-Funded and Funded Level C Placements
 - 340:75-11-330 [AMENDED]

- Part 31. Contracted Level D Placements
 - 340:75-11-350 [AMENDED]
- Part 33. Contracted Level D Plus and Level E Placements
 - 340:75-11-360 [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
 - 340:75-13-10 [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 6. Adoption Process
 - 340:75-15-41 [AMENDED]
 - 340:75-15-43 [AMENDED]
 - Part 10. Adoptive Family Assessment and Preparation Process
 - 340:75-15-82 through 340:75-15-84 [AMENDED]
 - 340:75-15-87 through 340:75-15-89 [AMENDED]
 - 340:75-15-91 [AMENDED]

(Reference APA WF 08-11 and 08-16)

SUMMARY:

The proposed revisions to Subchapters, 1, 6, 7, 8, 11, 13 and 15 of Chapter 75 amend the rules to: (1) comply with SB 1525, SB 1421, HB 2958, and HB 2530 by clarifying that the judge presiding over the deprived case also has authority to make a final determination and preside over any separate action necessary to finalize a child's permanency plan; permitting one face-to-face contact per quarter in a location other than the foster home; specifying the age of an otherwise eligible individual is not a reason for denial of placement; clarifying procedures for disclosure of information when a person responsible for a child has been criminally charged with the death or near-death of the child; providing financial start-up assistance to certain kinship providers; (2) provide information regarding the kinship start-up stipend now available to certain kinship families; and (3) update terminology and procedures to conform to current practice.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Title 10 of the Oklahoma Statutes; SB 1525, SB 1421, HB 2530 and HB 2958.

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008 through January 14, 2009 during regular business hours by contacting Caprice Tyner, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 918-794-7538.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 14, 2009 at 5:00 p.m.

Notices of Rulemaking Intent

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #08-1435; filed 11-25-08]

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

[OAR Docket #08-1436]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Administration

Part 1. General Administration

340:100-3-4 [AMENDED]

340:100-3-5 [AMENDED]

340:100-3-5.1 through 340:100-3-5.2 [AMENDED]

Part 3. Operations

340:100-3-33 [AMENDED]

340:100-3-35 [AMENDED]

340:100-3-38.5 [AMENDED]

340:100-3-38.12 [AMENDED]

340:100-3-39 [AMENDED]

Subchapter 5. Client Services

Part 3. Service Provisions

340:100-5-17 [REVOKED]

340:100-5-21 [REVOKED]

340:100-5-22.1 [AMENDED]

340:100-5-26 [AMENDED]

Part 5. Individual Planning

340:100-5-53 [AMENDED]

Subchapter 6. Group Home Regulations

Part 7. Environmental Health, Safety, and Sanitation Requirements

340:100-6-45 [AMENDED]

Part 11. Program Standards

340:100-6-55 [AMENDED]

Subchapter 17. Employment Services

Part 5. Other State Funded Employment Services

340:100-17-30 [AMENDED]

(Reference APA WF 08-13)

SUMMARY:

The proposed revisions to Subchapters 3, 5, 6, and 17 of Chapter 100 amend the rules to: (1) clarify appropriate uses of service recipients personal funds, maintaining Medicaid eligibility, and reporting exploitation; (2) specify age of initial guardianship or advocacy assessment; specify priority guardian/advocate candidates; and clarify special guardianships; (3) address eligibility, training and responsibilities for volunteer advocates; (4) remove the provision for use of the guardianship voucher for conservatorship; (5) specify authority in authorization and proper documentation of services; and the use of state funds to meet critical needs; (6) clarify processes and responsibilities involved in a mortality review; (7) clarify training exceptions in relation to the certificate of competency; (8) extend training requirements for staff providing homemaker, and homemaker respite in community settings; (9) clarify persons classified as community service workers and specify screening procedures for persons contracted directly with Oklahoma Health Care Authority (OHCA), clarify temporary employment offers not extend any longer than the time necessary to receive the results of the criminal history records search and registry review; (10) update anti-scald information and provider requirements; (11) reduce the number of unannounced monthly visits from provider agency program coordination staff; (12) remove the provision for state funding of vocational assessment activities that would be provided to persons transitioning from a public Intermediate Care Facilities for the Mentally Retarded (ICF/MR) facility; and (13) promote health and wellness of service recipients.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and in part Title 30 of the Oklahoma Statutes; Section 1415 of Title 10 of the Oklahoma Statutes (10 O.S. §1415); 56 O.S. § 228; 63 O.S. §1-1901 et seq.; 10 O.S. § 1430.1 et seq.; 51 O.S. § 151 et seq.; 56 O.S. § 1025.1 et seq.; 56 O.S. § 1020.

COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2008 through January 14, 2009 during regular business hours by contacting Samantha Galloway, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4989.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 14, 2009 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #08-1436; filed 11-25-08]

**TITLE 465. OKLAHOMA MOTOR VEHICLE COMMISSION
CHAPTER 10. LICENSE**

[OAR Docket #08-1411]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULE:

- Subchapter 1. Commission Licensing Procedures
465:10-1-7. [AMENDED]
- Subchapter 3. License Identification and Changes
465:10-3-3. [AMENDED]
- Subchapter 7. Off Premise Sale and Display
465:10-7-2. [AMENDED]
- 465:10-7-3. [AMENDED]

SUMMARY:

SB1654, effective May 2008, eliminated the application process for off premise displays of new motor vehicles. The proposed amendments to the rules in Subchapters 1 and 7 cleans up language so the rules will concur with the statutes. The proposed amendment to Subchapter 3 will allow salespersons to be licensed at more than one dealership as long as those dealerships share the same majority ownership.

AUTHORITY:

Oklahoma Motor Vehicle Commission, 47 O.S. Sections 563(F), 564, 564.1, and 565.

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so before 4:30 p.m. on Friday, January 16, 2009 at the Oklahoma Motor Vehicle Commission, 4334 N.W. Expressway, Suite 183, Oklahoma City, OK 73116.

PUBLIC HEARING:

A public hearing has not been scheduled, however, "persons may demand a hearing" pursuant to and in accordance with 75 O.S., Section 303 (B)(8). Please make your request in writing by January 16, 2009 to the Oklahoma Motor Vehicle Commission at the location listed above.

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

by Friday, January 16, 2009, to the Oklahoma Motor Vehicle Commission at the location listed above.

COPIES OF PROPOSED RULE:

Copies of the proposed rules may be obtained by fax or email (email@omvc.state.ok.us) for free; in person or by written request from the Oklahoma Motor Vehicle Commission located at the above named address at the cost of .25 cents per page. Each new motor vehicle dealer has been provided a copy of the proposed Rules in our quarterly newsletter via U.S. postal services.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared no later than December 22, 2008 and may be obtained from the Oklahoma Motor Vehicle Commission at the above address, or by email: email@omvc.state.ok.us.

CONTACT PERSON:

Marilyn Maxwell, Deputy Director, 405-607-8227, ext 101

[OAR Docket #08-1411; filed 11-25-08]

**TITLE 465. OKLAHOMA MOTOR VEHICLE COMMISSION
CHAPTER 15. ADVERTISING**

[OAR Docket #08-1410]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. Finding of Violation and Enforcement
465:15-5-1. [RENUMBERED TO 465:15-5-1.2]
- 465:15-5-1.1 [NEW]
- 465:15-5-1.2 [RENUMBERED FROM 465:15-5-1]
- Subchapter 7. Enforcement [REVOKED]
- 465:15-7-1. [REVOKED]
- 465:15-7-2. [REVOKED]

SUMMARY:

The proposed rules would revoke Subchapter 7, "Enforcement" and relocate enforcement procedures to Subchapter 5. The proposed rules establish modified advertising enforcement procedures to give more flexibility to appropriately address alleged violations. The intended effect of the proposed amendments will assist the Commission with proper enforcement to protect the citizens of Oklahoma from false and misleading advertising and ensure fair treatment for all dealers.

AUTHORITY:

Oklahoma Motor Vehicle Commission, 47 O.S. Section 563 (F) and Section 565 5(b).

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so before 4:30 p.m. on Friday January 16, 2009, at the Oklahoma Motor Vehicle Commission, 4334 N.W. Expressway, Suite 183, Oklahoma City, OK 73116.

Notices of Rulemaking Intent

PUBLIC HEARING:

A public hearing has not been scheduled, however, "persons may demand a hearing" pursuant to and in accordance with 75 O.S., Section 303 (B)(8). Please make your request in writing by January 16, 2009 to the Oklahoma Motor Vehicle Commission at the location listed above.

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 by Friday January 16, 2009 to the Oklahoma Motor Vehicle Commission at the location listed above.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by fax or email (email@omvc.state.ok.us) for free; in person or by written request from the Oklahoma Motor Vehicle Commission located at the above named address at the cost of .25 cents per page. Each new motor vehicle dealer has been provided a copy of the proposed Rules in our quarterly newsletter via U.S. postal services.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared no later than December 22, 2008 and may be obtained from the Oklahoma Motor Vehicle Commission at the above address, or by email: email@omvc.state.ok.us.

CONTACT PERSON:

Marilyn Maxwell, Deputy Director (405) 607-8227, ext 101

[OAR Docket #08-1410; filed 11-25-08]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #08-1385]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 1. Administrative Operations [AMENDED]

SUMMARY:

Additions, revocations and amendments are proposed necessitating permanent rulemaking action. Proposed changes may include modifying and clarifying the process of administrative review and hearings and declaratory rulings. These proposals are designed to make the administration of the Public Employees Retirement System more efficient and member service oriented.

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees, pursuant to 74 O.S. Section 909.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:30 p.m. on January 20, 2009, by mail or hand-delivery, to the offices of Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

PUBLIC HEARING:

A Public Hearing will be held to provide an opportunity for persons to present their views orally at 1:30 p.m., Thursday, January 22, 2009, in the Board Room of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review by the public between 8:00 a.m. and 4:30 p.m., Monday through Friday, (excluding legal holidays) from Pat Ewald, at the offices of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared as required by 75 O.S. Section 303(D), and will be available on and after December 30, 2008, at the offices of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

CONTACT PERSON:

Joseph A. Fox, General Counsel (405) 858-6737.

[OAR Docket #08-1385; filed 11-20-08]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 10. PUBLIC EMPLOYEES RETIREMENT SYSTEM

[OAR Docket #08-1386]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 10. Public Employees Retirement System [AMENDED]

SUMMARY:

Additions, revocations and amendments are proposed necessitating permanent rulemaking action. Proposed changes may include topics related to permitting the System to accept post tax rollover contributions for service credit purchases, modifying members who are considered to have met the 60 day notice requirement, modifying the deadline for receipt of the Medicare Gap Benefit Option election for certain non-active vested members, providing for calculation of service credit for certain elected officials, and setting forth certain eligibility requirements for post-retirement employment. The agency is

considering other proposals which are designed to make the administration of the Public Employees Retirement System more efficient and member service oriented or to ensure continued Plan qualification.

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees, pursuant to 74 O.S. Section 909.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:30 p.m. on January 20, 2009, by mail or hand-delivery, to the offices of Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

PUBLIC HEARING:

A Public Hearing will be held to provide an opportunity for persons to present their views orally at 1:30 p.m., Thursday, January 22, 2009, in the Board Room of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review by the public between 8:00 a.m. and 4:30 p.m., Monday through Friday, (excluding legal holidays) from Pat Ewald, at the offices of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared as required by 75 O.S. Section 303(D), and will be available on and after December 30, 2008, at the offices of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

CONTACT PERSON:

Joseph A. Fox, General Counsel (405) 858-6737.

[OAR Docket #08-1386; filed 11-20-08]

**TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM
CHAPTER 15. UNIFORM RETIREMENT SYSTEM FOR JUSTICES AND JUDGES**

[OAR Docket #08-1387]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 15. Uniform Retirement System for Justices and Judges

SUMMARY:

Additions, revocations and amendments are proposed necessitating permanent rulemaking action. Proposed changes may include topics related to permitting the System to accept post tax rollover contributions for service credit purchases. The agency is considering other proposals which are designed to make the administration of the Public Employees Retirement System more efficient and member service oriented or to ensure continued Plan qualification.

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees, pursuant to 74 O.S. Section 909 and 20 O.S. Sections 1101.1 and 1108.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:30 p.m. on January 20, 2009, by mail or hand-delivery, to the offices of Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

PUBLIC HEARING:

A Public Hearing will be held to provide an opportunity for persons to present their views orally at 1:30 p.m., Thursday, January 22, 2009, in the Board Room of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review by the public between 8:00 a.m. and 4:30 p.m., Monday through Friday, (excluding legal holidays) from Pat Ewald, at the offices of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared as required by 75 O.S. Section 303(D), and will be available on and after December 30, 2008, at the offices of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

CONTACT PERSON:

Joseph A. Fox, General Counsel (405) 858-6737.

[OAR Docket #08-1387; filed 11-20-08]

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 330. OKLAHOMA HOUSING FINANCE AGENCY CHAPTER 36. AFFORDABLE HOUSING TAX CREDIT PROGRAM

[OAR Docket #08-1384]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

330:36-1-4. [AMENDED]

Subchapter 2. Allocation Procedures

330:36-2-1. [AMENDED]

330:36-2-2. [AMENDED]

330:36-2-7. [AMENDED]

330:36-2-9. [AMENDED]

330:36-2-11. [AMENDED]

330:36-2-16. [AMENDED]

330:36-2-17. [AMENDED]

Subchapter 4. Development Applications and Selection

330:36-4-2. [AMENDED]

330:36-4-2.1. [AMENDED]

Subchapter 6. Program Administration

330:36-6-3. [AMENDED]

330:36-6-7. [AMENDED]

SUBMITTED TO GOVERNOR:

November 19, 2008

SUBMITTED TO HOUSE:

November 19, 2008

SUBMITTED TO SENATE:

November 19, 2008

[OAR Docket #08-1384; filed 11-19-08]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 50. LICENSED PEDORTHISTS

[OAR Docket #08-1373]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

435:50-1-4. Definitions [AMENDED]

Subchapter 3. Licensure/Registration/Reinstatement

435:50-3-4. Application procedure [AMENDED]

435:50-3-5. Standard requirements for licensure
[AMENDED]

435:50-3-8. Licensure by endorsement [AMENDED]

435:50-3-9. Requirements for temporary licensure
[AMENDED]

Subchapter 5. Annual Renewal/Continuing Education

435:50-5-1. Definitions

435:50-5-4. Approval of continuing education
[AMENDED]

Subchapter 7. Regulation of Practice

435:50-7-2. Standards of ethics and professional conduct
[AMENDED]

SUBMITTED TO GOVERNOR:

November 13, 2008

SUBMITTED TO HOUSE:

November 13, 2008

SUBMITTED TO SENATE:

November 13, 2008

[OAR Docket #08-1373; filed 11-17-08]

Emergency Adoptions

An agency may adopt new rules, or amendments to or revocations of existing rules, on an emergency basis if the agency determines that "an imminent peril exists to the preservation of the public health, safety, or welfare, or that a compelling public interest requires an emergency rule[s] [A]n agency may promulgate, at any time, any such [emergency] rule[s], provided the Governor first approves such rule[s]" [75 O.S., Section 253(A)].

An emergency action is effective immediately upon approval by the Governor or on a later date specified by the agency in the preamble of the emergency rule document. An emergency rule expires on July 15 after the next regular legislative session following promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which references the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

For additional information on the emergency rulemaking process, see 75 O.S., Section 253.

TITLE 160. DEPARTMENT OF CONSUMER CREDIT CHAPTER 55. MORTGAGE BROKERS

[OAR Docket #08-1424]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. Licensing
160:55-3-1.2 [AMENDED]
160:55-3-1.4 [AMENDED]

AUTHORITY:

Administrator of Consumer Credit; 59 O.S., §2085(A)(1)(b) and (L)(5), and §2093(A)

DATES:

Adoption:

October 8, 2008

Approved by Governor:

November 12, 2008

Effective:

Immediately upon Governor's approval or November 1, 2008, whichever is later

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Administrator of Consumer Credit finds that there is a compelling public interest requiring emergency amendments to existing rules. The compelling public interest is the amendments to the Mortgage Broker Licensure Act that are effective November 1, 2008, pursuant to Senate Bills 1927 and 1928 from the 2008 Second Regular Session of the 51st Legislature.

ANALYSIS:

The amended rules provide regulations for the change in pre-licensing and continuing education requirements pursuant to Senate Bills 1927 and 1928 from the 2008 Second Regular Session of the 51st Legislature.

CONTACT PERSON:

Roy John Martin, Assistant Attorney General, Department of Consumer Credit, 4545 N. Lincoln Boulevard, Suite 164, Oklahoma City, OK 73105, 405-521-3653.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR OR NOVEMBER 1, 2008, WHICHEVER IS LATER:

SUBCHAPTER 3. LICENSING

160:55-3-1.2. Experience or educational requirement

(a) **Mortgage Broker.** To apply for a mortgage broker license, an applicant shall provide satisfactory evidence of the required experience or ~~graduation from an institution of higher education or a vocational school with a degree in a discipline that directly relates to the occupation of a mortgage broker~~ certificates of completion for twenty (20) hours of education courses approved by the National Association of Mortgage Brokers taken within the required time period. [59:2085(A)(1)(a) and (b)]

(b) **Mortgage Loan Originator.** To apply for a mortgage loan originator license, an applicant shall provide certificates of completion for sixteen (16) hours of education courses approved by the National Association of Mortgage Brokers taken within the required time period and may provide satisfactory evidence of the required experience [59:2085(L)(4) and (5)].

(c) Satisfactory evidence for experience includes, but is not limited to, W-2 forms and 1099 forms.

(d) For purposes of this section, "applicant" means an individual; an owner of a sole proprietorship; the stockholders or three largest stockholders and the officers, directors and trustees of a corporation; the partners, principals, officers and directors of a partnership or limited liability company.

160:55-3-1.4. Continuing education

(a) **Purpose.** The purpose of this section is to set forth the requirements for continuing education, and to set forth the requirements for approval by the Administrator of a proposed continuing education course.

(b) **Definitions.** The following words or terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) ~~"CEC" means continuing education credit.~~
- (2) ~~"Certificate of course—completion"~~ means a form acceptable to the Administrator and completed by the provider that signifies satisfactory completion of the approved course and reflects hours of ~~credit~~ earned.
- (3) ~~"Credit hour" means at least a fifty (50) minute classroom instructional session unless a correspondence or self study course.~~
- (4) **"Education verification form"** means a form acceptable to the Administrator and completed by the

Emergency Adoptions

mortgage broker or mortgage loan originator that states under oath to compliance with the continuing education requirements.

(53) **"Provider"** means the Commission; a technology center school; a college or university; a private school; the Oklahoma Association of Mortgage Brokers, the National Association of Mortgage Brokers or any affiliate thereof; the Oklahoma Bar Association, American Bar Association or any affiliate thereof; or an education provider that provides approved continuing education courses. [59:2093(B)]

(c) **Continuing education requirements.**

(1) ~~Credit hours~~**Hours.**

(A) All mortgage brokers and mortgage loan originators shall complete sixteen (16) ~~credit~~ hours of continuing education before license renewal or reactivation. [59:2093(A)] ~~Provided, however, continuing education shall not be required for the renewal of any mortgage loan originator license for 2007, and mortgage loan originators shall have from July 1, 2006, until December 31, 2007, to complete the continuing education hours for the renewal of their licenses for 2008.~~ Courses taken in excess of the required hours shall not carry forward.

(B) A minimum of seven (7) of the sixteen (16) credit hours shall consist of:

- (i) one (1) credit hour covering the Real Estate Settlement Procedures Act;
- (ii) one (1) credit hour covering the Truth In Lending Act;
- (iii) one (1) credit hour covering federal laws related to fair lending - the Equal Credit Opportunity Act, the Fair Housing Act and the Home Mortgage Disclosure Act; and
- (iv) four (4) credit hours covering ethics. [59:2093(A)]

~~(C) Courses must be of a meaningful nature and shall not include items such as prospecting, motivation, sales techniques, psychology, recruiting, time management, phone etiquette, and subjects not relating to the license. Courses conducted in conjunction with other meetings must have a separate continuing education course component; the method to monitor attendance must be stated and approved by the Administrator.~~

(2) ~~Correspondence and video courses.~~

~~(A) Correspondence courses. A mortgage broker or mortgage loan originator who completes an approved course by correspondence and provides satisfactory proof of completion will receive credit for the number of hours assigned for the course.~~

~~(B) Video courses. In order for a mortgage broker or mortgage loan originator to receive credit for viewing an approved course presented by video, the mortgage broker or mortgage loan originator must view the video under the supervision of a contact person with the provider and swear by affidavit that the video~~

~~was viewed in its entirety. The affidavit must also be signed by the supervising contact person.~~

(3) **Credit for instructors.** An instructor who is a mortgage broker or a mortgage loan originator shall receive the same continuing education credit for presenting approved course materials as a mortgage broker or mortgage loan originator who attends an approved classroom instructional session.

(4) ~~Certificates of course—completion required for license renewal or reactivation.~~ Each mortgage broker and mortgage loan originator shall attach an education verification form and certificates of ~~course—completion~~ for the required number of ~~credit—hours~~ to the renewal or reactivation application. [59:2093(A)]

(5) **Repeating courses.** A mortgage broker or mortgage loan originator may repeat a course before renewal, if the maximum ~~credits~~ hours designated for the course were not attained in the first attempt. By repeating the course, the mortgage broker or mortgage loan originator may not earn more than the maximum ~~credits~~ hours designated for the course. A mortgage broker or mortgage loan originator may repeat a course after two (2) license renewal dates have elapsed and receive the maximum ~~credits~~ hours designated for the course.

(6) **Exceptions.** The requirements for continuing education in this section shall not apply to:

- (A) a mortgage broker whose license is on inactive status; or,
- (B) a non-resident mortgage broker or mortgage loan originator who is licensed in a state having continuing education requirements and the mortgage broker or mortgage loan originator meets all the requirements of that state. The non-resident mortgage broker or mortgage loan originator shall be responsible for providing satisfactory proof of compliance with the other state's requirements. [59:2093(E)]

(7) **Extensions.** For good cause shown, the Administrator may grant an extension of time during which the continuing education requirements may be completed. The extension shall not exceed twelve (12) months. The extension will not alter the requirements or due date of the succeeding renewal. "Good cause" includes disability, natural disaster, or other extenuating circumstances. Each request for extension of time shall be in writing from the mortgage broker or mortgage loan originator and shall include details and any documentation to support the request. Each request must be received by the Administrator no less than thirty (30) days before renewal.

(d) **Approval of continuing education courses.**

(1) **Information required.** Each provider shall apply for approval of each course. All providers, including publicly funded educational institutions, shall provide:

- (A) Name and address of the provider.
- (B) Contact person and his or her address and telephone number(s).
- (C) The location of the course, unless it is an individual study or correspondence course.

(D) ~~The number of CEC hours requested for each course. Documentation that each course is approved by the National Association of Mortgage Brokers and the number of hours approved for each course.~~ Courses must consist of a minimum of one (1) ~~credit~~ hour.

(E) Subject outlines which list the summarized subjects covered in each course and a copy of any course materials.

~~(i) If a classroom course, a timed outline including any breaks.~~

~~(ii) If a correspondence course, a copy of text or table of contents with page numbers.~~

(F) The names and qualification of instructors. ~~An instructor shall have one (1) of the following qualifications:~~

~~(i) Three (3) years of recent experience in the subject area being taught; or~~

~~(ii) A degree related to the subject area being taught; or~~

~~(iii) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college and/or vocational technical school credit hours in the subject area being taught.~~

(2) **Application deadline for course approval.** At least thirty (30) days prior to the course date, the provider shall apply to the Administrator for course approval. The Administrator shall grant or deny approval in writing based upon information submitted regarding each course. The Administrator will assign the number of ~~CEC~~ hours awarded for an approved course. Each course approval shall be valid for a period of twelve (12) months. Course materials must be resubmitted at the time of expiration.

(3) **Withheld or withdrawn approval.** The Administrator may withhold or withdraw approval for any course for non-compliance with any provision of this section. This withdrawal will not affect any ~~CEC~~ hours attained under the course previous to the withdrawal.

(4) **List of approved courses.** A list of approved courses shall be available from the Administrator. [59:2093(C)]

(5) **Certificate of Course Completion.** At the completion of each course, the provider shall provide each mortgage broker or mortgage loan originator with a "Certificate of ~~Course~~ Completion" form.

(6) **List of mortgage brokers and mortgage loan originators completing course to Administrator.** At the completion of each course, the provider shall provide the Administrator a list of all mortgage brokers and mortgage loan originators who completed the course. This list shall reflect the name and license number of each mortgage broker and mortgage loan originator.

(7) **Course records.** Providers shall maintain course records for at least seven (7) years.

[OAR Docket #08-1424; filed 11-25-08]

**TITLE 210. STATE DEPARTMENT OF
EDUCATION
CHAPTER 20. STAFF**

[OAR Docket #08-1423]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 9. Teacher Certification

210:20-9-102. Career development program for paraprofessionals [AMENDED]

AUTHORITY:

70 O. S. § 3-104, State Board of Education

DATES:

Adoption:

September 18, 2008

Approved by Governor:

November 6, 2008

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 9. Teacher Certification

210:20-9-102. Career development program for paraprofessionals [AMENDED]

Gubernatorial approval:

May 5, 2008

Register publication:

25 Ok Reg 1753

Docket number:

08-1054

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

There is a compelling public interest in those persons teaching in the public schools.

ANALYSIS:

The proposed rule amendments, in accordance with statutory requirements at 70 O. S. § 6-127A, amend the career development program for paraprofessionals and adds additional requirements for certification of paraprofessionals.

CONTACT PERSON:

Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O. S., SECTION 253 (D):

**SUBCHAPTER 9. PROFESSIONAL STANDARDS:
TEACHER EDUCATION AND CERTIFICATION**

PART 9. TEACHER CERTIFICATION

Emergency Adoptions

210:20-9-102. Career development program for paraprofessionals

(a) The State Department of Education shall issue a paraprofessional credential to an applicant who meets the following requirements:

- (1) has a high school diploma or a General Educational Development (GED) Diploma,
- (2) has met a career development paraprofessional program approved by the State Board of Education, and
- (3) has on file with the Board a current Oklahoma criminal history record from the Oklahoma State Bureau of Investigation as well as a national fingerprint-based criminal history record provided by the Federal Bureau of Investigation. Upon receipt of the Oklahoma criminal history record, the Board may issue a temporary credential which shall be effective until receipt of the national fingerprint-based criminal history record. The person applying for a credential shall be responsible for the cost of the criminal history records.

(b) The State Department of Education shall issue a one-year, renewable for up to three years, early childhood, elementary education, or special education teaching license to a paraprofessional who meets the following requirements:

- (1) Has been employed for one full year with a public school as a paraprofessional in the area for which a license is being pursued.
- (2) Has a bachelor's degree from an accredited college.
- (3) Has passed the Oklahoma General Education Test, the Early Childhood or Elementary Education or Special Education Oklahoma Subject Area Test and the Oklahoma Professional Teaching Exam (PK-8).
- (4) Has on file with the State Board of Education a current Oklahoma criminal history record from the Oklahoma State Bureau of Investigation as well as a national fingerprint-based criminal history record provided by the Federal Bureau of Investigation. Upon receipt of the Oklahoma criminal history record, the Board may issue a temporary credential which shall be effective until receipt of the national fingerprint-based criminal history record. The person applying for a credential shall be responsible for the cost of the criminal history records.
- (5) Has made application to the Oklahoma State Department of Education.
- (6) The individual shall be reported on the certified personnel report and be considered as any other certified employee.
- (7) The State Department of Education shall issue a standard teaching certificate upon successful completion of a residency year program and twelve (12) semester hours of professional education coursework from an accredited institution of higher education which has an accredited program related to the license sought, including a minimum of three (3) semester hours in reading instruction, from a higher education program accredited by the Oklahoma Commission for Teacher Preparation.

[OAR Docket #08-1423; filed 11-25-08]

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

[OAR Docket #08-1376]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. General Provider Policies
Part 1. General Scope And Administration
317:30-3-25. [AMENDED]
Subchapter 5. Individual Providers and Specialties
Part 9. Long Term Care Facilities
317:30-5-122. [AMENDED]

(Reference APA WF # 08-28)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 USC 1902(a)(10) and 1905(p)(3) of the Social Security Act.

DATES:

Adoption:

October 9, 2008

Approved by Governor:

November 12, 2008

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Immediately upon Governor's approval or December 1, 2008, whichever is later

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to limit payment of Medicare Part A to the Medicaid allowable for services in a skilled nursing facility. The change is needed to maximize the use of state funding and support the ongoing quality of care initiatives undertaken by the industry and the OHCA.

ANALYSIS:

SoonerCare rules are revised to limit payment of Medicare Part A to the Medicaid allowable for services in a skilled nursing facility. The change will pay only up to the Medicaid rate for Medicare crossover claims for Skilled Nursing care, which in effect will reduce these payments by approximately \$21 million. The state share for these payments will be used in support of the Medicaid rate components for regular nursing home care. Alternatively, the denied claim amounts for the crossovers are reimbursable by the Medicare program to the facilities as bad debt expense.

CONTACT PERSON:

Joanne Terlizzi at (405)522-7272

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR DECEMBER 1, 2008, WHICHEVER IS LATER:

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 1. GENERAL SCOPE AND ADMINISTRATION

317:30-3-25. Crossovers (coinsurance and deductible)

(a) ~~Medicare Parts A and Part B.~~ Payment is made for Medicare deductible and coinsurance on behalf of eligible individuals.

(b) Medicare Part A. Payment is made for Medicare deductible and coinsurance on behalf of eligible individuals limited to the Medicaid allowable reimbursement for services in a skilled nursing facility.

(b)c) **Medicare Advantage Plans.** Payment is made for Medicare HMO co-payments. For services offered by Medicare Advantage Plans that revert to traditional Medicare type benefits, payment is made for coinsurance and deductibles according to subsection (a) and (b) in this section.

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 9. LONG TERM CARE FACILITIES

317:30-5-122. Levels of care

The level of care provided by a long term care facility to a patient is based on the nature of the health problem requiring care and the degree of involvement in nursing services/care needed from personnel qualified to give this care.

(1) **Skilled Nursing facility.** Payment When total payments from all other payers are less than the Medicaid rate, payment is made for the Part A coinsurance for Medicare covered skilled nursing facility care for dually eligible, categorically needy individuals.

(2) **Nursing Facility.** Care provided by a nursing facility to patients who require professional nursing supervision and a maximum amount of nonprofessional nursing care due to physical conditions or a combination of physical and mental conditions.

(3) **Intermediate Care Facility for the Mentally Retarded.** Care provided by a nursing facility to patients who require care and active treatment due to mental retardation or developmental disability combined with one or more handicaps. The mental retardation or developmental disability must have originated during the patient's developmental years (prior to 22 years of chronological age).

[OAR Docket #08-1376; filed 11-18-08]

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

[OAR Docket #08-1375]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-27. [NEW]
Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-11. [AMENDED]
Part 3. Hospitals
317:30-5-47. [AMENDED]
Part 35. Rural Health ~~Clinic~~ Clinics
317:30-5-361. [AMENDED]
Part 75. Federally Qualified Health Centers
317:30-5-664.10. [AMENDED]
Part 110. Indian Health Services, Tribal Programs, and Urban Indian Clinics (I/T/Us)
317:30-5-1090. [AMENDED]
(Reference APA WF # 08-15)

AUTHORITY:
The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Telemedicine Act of 1997; 42 CFR 410.78.

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SUPERSEDED EMERGENCY ACTIONS:
N/A

INCORPORATIONS BY REFERENCE:
N/A

FINDING OF EMERGENCY:
The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions that add telemedicine as a service delivery option for certain provider types and specialties. Approximately twenty percent of SoonerCare members live in rural or medically underserved areas. The addition of telemedicine as a service delivery option provides member's with increased access to quality care. Moreover, members will have the option of staying in their community and will no longer have to travel long distances which may put their health at further risk.

ANALYSIS:
Agency rules are revised to add telemedicine as a service delivery option for certain provider types and specialties. Telemedicine is the use of medical information exchanged from one site to another via electronic communications for the health and education of the patient and for the purpose of improving patient care. Telemedicine includes consultive, diagnostic and treatment services. The addition of telemedicine as a service delivery option provides members with increased access to specialists and provisions of care not previously deliverable, better continuity of care and eliminates the hardship caused by traveling extended distances. Oklahoma, like many other states, has a provider distribution problem. Specialists are concentrated in metropolitan centers, such as Oklahoma City and Tulsa, and few, if any are in rural areas. Not only will telemedicine improve the quality of care SoonerCare members receive by extending specialty care to rural and underserved areas; it also offers rural providers enhanced clinical support.

CONTACT PERSON:
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Emergency Adoptions

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR JANUARY 1, 2009, WHICHEVER IS LATER:

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 1. GENERAL SCOPE AND ADMINISTRATION

317:30-3-27. Telemedicine

(a) **Applicability and scope.** The purpose of this Section is to implement telemedicine policy that improves access to health care services by enabling the provision of medical specialty care in rural or underserved areas to meet the needs of members and providers alike, while complying with all applicable federal and state statutes and regulations. Telemedicine services are not an expansion of SoonerCare covered services but an option for the delivery of certain covered services. SoonerCare views telemedicine no differently than an office visit or outpatient consultation. However, if there are technological difficulties in performing an objective through medical assessment or problems in member's understanding of telemedicine, hands-on-assessment and/or care must be provided for the member. Quality of health care must be maintained regardless of the mode of delivery.

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

(1) **"Certified or licensed health care professional"** means an individual who has successfully completed a prescribed program of study in any variety of health fields and who has obtained an Oklahoma state license or certificate indicating his or her competence to practice in that field.

(2) **"Distant site"** means the site where the specialty physician/practitioner providing the professional service is located at the time the service is provided via audio/video telecommunications.

(3) **"Interactive telecommunications"** means multimedia communications equipment that includes, at a minimum, audio/video equipment permitting two-way, real-time or near real-time service or consultation between the member and the practitioner.

(4) **"Originating site"** means the location of the SoonerCare member at the time the service is being performed by a contracted provider via audio/video telecommunications.

(5) **"Rural area"** means a county with a population of less than 50,000 people.

(6) **"Store and forward"** means the asynchronous transmission of medical information to be reviewed at a

later time. A camera or similar device records (stores) an image(s) that is then sent (forwarded) via telecommunications media to another location for later viewing. The sending of x-rays, computed tomography scans, or magnetic resonance images are common store and forward applications. The original image may be recorded and/or forwarded in digital or analog format and may include video "clips" such as ultrasound examinations, where the series of images that are sent may show full motion when reviewed at the receiving location.

(7) **"Telehealth"** means the use of telecommunication technologies for clinical care (telemedicine), patient teaching and home health, health professional education (distance learning), administrative and program planning, and other diverse aspects of a health care delivery system.

(8) **"Telemedicine"** means the practice of health care delivery, diagnosis, consultation and treatment and the transfer of medical data through interactive audio, video or data communications that occur in the real-time or near real-time and in the physical presence of the member.

(9) **"Telemedicine network"** means a network infrastructure, consisting of computer systems, software and communications equipment to support telemedicine services.

(10) **"Underserved area"** means an area that meets the definition of a medically underserved area (MUA) or medically underserved population (MUP) by the U.S. Department of Health and Human Services (HHS).

(c) **Coverage.** SoonerCare coverage for telemedicine technology is limited to consultations, office visits, individual psychotherapy, psychiatric diagnostic interview examinations and testing, mental health assessments and pharmacologic management.

(1) An interactive telecommunications system is required as a condition of coverage.

(2) Coverage for telemedicine services is limited to members in rural areas, underserved areas, or geographic areas where there is a lack of medical/psychiatric/mental health expertise locally.

(3) Office and outpatient visits that are conducted via telemedicine are counted toward the applicable benefit limits for these services.

(4) Authorized originating sites are:

(A) The office of a physician or practitioner;

(B) A hospital;

(C) A school;

(D) An outpatient behavioral health clinic;

(E) A critical access hospital;

(F) A rural health clinic (RHC);

(G) A federally qualified health center (FQHC); or

(H) An Indian Health Service facility, a Tribal health facility or an Urban Indian clinic (I/T/U).

(5) Authorized distant site specialty physicians and practitioners are contracted:

(A) Physicians;

(B) Advanced Registered Nurse Practitioners;

(C) Physicians Assistants;

(D) Genetic Counselors;

- (E) Licensed Behavioral Health Professionals; and
- (F) Dieticians.
- (d) **Non-covered services.** Non-covered services include:
 - (1) Telephone conversation;
 - (2) Electronic mail message; and
 - (3) Facsimile.
- (e) **Store and forward technology.** SoonerCare covers store and forward technology for applications in which, under conventional health care delivery, the medical service does not require face-to-face contact between the member and the provider. Examples include teleradiology, telepathology, fetal monitor strips, as well as physician interpretation of electrocardiogram and electroencephalogram readings that are transmitted electronically. SoonerCare does not consider these services telemedicine as defined by OHCA and will not reimburse an originating site fee for these services.
- (f) **Conditions.** The following conditions apply to all services rendered via telemedicine.
 - (1) Interactive audio and video telecommunications must be used, permitting real-time communication between the distant site physician or practitioner and the SoonerCare member. As a condition of payment the member must be present and participating in the telemedicine visit.
 - (2) Only telemedicine services provided utilizing an OHCA approved network are eligible for reimbursement.
 - (3) For SoonerCare reimbursement, telemedicine connections to rural areas must be located within Oklahoma and the health providers must be licensed in Oklahoma or practice at an I/T/U.
 - (4) The telemedicine equipment and transmission speed must be technically sufficient to support the service billed. If a peripheral diagnostic scope is required to assess the member, it must provide adequate resolution or audio quality for decision making. Staff involved in the telemedicine visit need to be trained in the use of the telemedicine equipment and competent in its operation.
 - (5) An appropriate certified or licensed health care professional at the originating site is required to present the member to the physician or practitioner at the distant site and remain available as clinically appropriate.
 - (6) The health care practitioner must obtain written consent from the SoonerCare member that states they agree to participate in the telemedicine-based office visit. The consent form must include a description of the risks, benefits and consequences of telemedicine and be included in the member's medical record.
 - (7) If the member is a minor child, a parent/guardian must present the minor child for telemedicine services unless otherwise exempted by State or Federal law. The parent/guardian need not attend the telemedicine session unless attendance is therapeutically appropriate.
 - (8) The member retains the right to withdraw at any time.
 - (9) All existing confidentiality protections apply.
 - (10) The member has access to all transmitted medical information, with the exception of live interactive video as there is often no stored data in such encounters.
 - (11) There will be no dissemination of any member images or information to other entities without written consent from the member.
- (g) **Reimbursement.**
 - (1) A facility fee will be paid to the originating site when the appropriate telemedicine facility fee code is used.
 - (A) Hospital outpatient: When the originating site is a hospital outpatient department, payment for the originating site facility fee will be paid according to the SoonerCare fee schedule.
 - (B) Hospital inpatient: For hospital inpatients, payment for the originating site facility fee will be paid outside the Diagnostic Related Group (DRG) payment.
 - (C) FQHCs and RHCs: The originating site facility fee for telemedicine services is not an FQHC or RHC service. When an FQHC or RHC serves as the originating site, the originating site facility fee is paid separately from the center or clinic all-inclusive rate.
 - (D) Facilities of the Indian Health Service, tribal facilities or Urban Indian Clinics: When an I/T/U serves as the originating site, the originating site facility fee is reimbursed outside the OMB rate.
 - (E) Physicians'/practitioners' offices: When the originating site is a physician's office, the originating site facility fee will be paid according to the SoonerCare fee schedule. If a provider from the originating site performs a separately identifiable service for the member on the same day as telemedicine, documentation for both services must be clearly and separately identified in the member's medical record.
 - (2) Services provided by telemedicine must be billed with the appropriate modifier. Only the portion of the telemedicine service rendered from the distant site is billed with the modifier.
 - (3) If the technical component of an X-ray, ultrasound or electrocardiogram is performed at the originating site during a telemedicine transmission, the technical component and a telemedicine facility fee are billed by the originating site. The professional component of the procedure and the appropriate visit code are billed by the distant site.
 - (4) Post payment review may result in adjustments to payment when a telemedicine modifier is billed inappropriately or not billed when appropriate.
 - (5) The cost of telemedicine equipment and transmission is not reimbursable by SoonerCare.
- (h) **Documentation.**
 - (1) Documentation must be maintained at the originating and the distant locations to substantiate the services provided.
 - (2) Documentation must indicate the services were rendered via telemedicine, the location of the originating and distant sites, and which OHCA approved network was used.
 - (3) All other SoonerCare documentation guidelines apply to the services rendered via telemedicine. Examples include but are not limited to:

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- (A) Chart notes;
- (B) Start and stop times;
- (C) Service provider's credentials; and
- (D) Provider's signature.

(i) **Telemedicine network standards.** In order to be an approved telemedicine network, an applicant must be contracted with the OHCA and meet certain technical and privacy standards stated within the contract in order to ensure the highest quality of care.

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 1. PHYSICIANS

317:30-5-11. Psychiatric services

(a) Payment is made for procedure codes listed in the Psychiatry section of the most recent edition of the American Medical Association Current Procedural Terminology codebook. The codes in this service range are accepted services within the SoonerCare program for children and adults with the following exceptions:

- (1) Psychiatric evaluation of hospital records, other psychiatric reports, psychometric and/or projective tests, and other accumulated data for medical diagnostic purposes.
 - (2) Interpretation or explanation of results of psychiatric, other medical examinations and procedures, or other accumulated data to family or other responsible persons, or advising them how to assist the patient.
 - (3) Preparation of report of patient's psychiatric status, history, treatment, or progress (other than for legal or consultative purposes) for other physicians, agencies, or insurance carriers.
 - (4) Unlisted psychiatric service or procedure.
- (b) All services must be medically necessary and appropriate and include a Diagnostic and Statistical Manual (DSM) multi axial diagnosis completed for all five axes from the most recent version of the DSM.
- (c) Services in the psychiatry section of the CPT manual must be provided by a board eligible or board certified psychiatrist or a physician, physician assistant, or nurse practitioner with additional training that demonstrates the knowledge to conduct the service performed. ~~For general physicians (M.D. or D.O.), physician assistants, or nurse practitioners, payment is made for the appropriate medical procedure code(s) and not for psychiatric procedure codes.~~
- (d) ~~No services in the psychiatry series of the CPT manual may be provided via telemedicine or other electronic medium, with the exception of "pharmacologic management". Pharmacological management may be performed via telemedicine under the following circumstances:~~
- (1) ~~A healthcare professional with knowledge of the patient must accompany and attend the patient during the performance of the service.~~

~~(2) The psychiatrist performing the service or in the case of a group practice or agency, another psychiatrist within that practice or agency must have seen the patient receiving the service during either a psychiatric exam or previous pharmacologic management session or other face to face psychiatric service.~~

~~(3) The patient must understand the procedure including the technologic aspects of the process and agree, in writing, to having his/her pharmacological management session via electronic equipment.~~

~~(e) The telecommunications equipment must provide clear images of the psychiatrist to the patient. The psychiatrist must have a clear visual field to effectively evaluate the physical condition of the patient, including but not limited to extrapyramidal symptoms, injuries and changes in weight. Audio reception must be sufficient for the patient and physician to clearly hear one another's conversation.~~

~~(d) Psychiatric services performed via telemedicine are subject to the requirements found in OAC 317:30-3-27.~~

PART 3. HOSPITALS

317:30-5-47. Reimbursement for inpatient hospital services

Reimbursement will be made for inpatient hospital services rendered on or after October 1, 2005, in the following manner:

(1) Covered inpatient services provided to eligible SoonerCare members admitted to in-state acute care and critical access hospitals will be reimbursed at a prospectively set rate which compensates hospitals an amount per discharge for discharges classified according to the Diagnosis Related Group (DRG) methodology. For each SoonerCare member's stay, a peer group base rate is multiplied by the relative weighting factor for the DRG which applies to the hospital stay. In addition to the DRG payment, an outlier payment may be made to the hospital for very high cost stays. Additional outlier payment is applicable if the DRG payment is less than a threshold amount of the hospital cost. Each inpatient hospital claim is tested to determine whether the claim qualified for a cost outlier payment. Payment is equal to a percentage of the cost after the threshold is met.

(2) The DRG payment and outlier, if applicable, represent full reimbursement for all non-physician services provided during the inpatient stay. Payment includes but is not limited to:

- (A) laboratory services;
- (B) prosthetic devices, including pacemakers, lenses, artificial joints, cochlear implants, implantable pumps;
- (C) technical component on radiology services;
- (D) transportation, including ambulance, to and from another facility to receive specialized diagnostic and therapeutic services;
- (E) pre-admission diagnostic testing performed within 72 hours of admission; and

(F) organ transplants.

(3) Hospitals may submit a claim for payment only upon the final discharge of the patient or upon completion of a transfer of the patient to another hospital.

(4) Covered inpatient services provided to eligible members of the Oklahoma SoonerCare program, when treated in out-of-state hospitals will be reimbursed in the same manner as in-state hospitals.

(5) Cases which indicate transfer from one acute care hospital to another will be monitored under a retrospective utilization review policy to help ensure that payment is not made for inappropriate transfers.

(6) If the transferring or discharge hospital or unit is exempt from the DRG, that hospital or unit will be reimbursed according to the method of payment applicable to the particular facility or units.

(7) Covered inpatient services provided in out-of-state specialty hospitals may be reimbursed at a negotiated rate not to exceed 100% of the cost to provide the service. Negotiation of rates will only be allowed when the OHCA determines that the specialty hospital or specialty unit provides a unique (non-experimental) service required by SoonerCare members and the provider will not accept the DRG payment rate. Prior authorization is required.

(8) New providers entering the SoonerCare program will be assigned a peer group and will be reimbursed at the peer group base rate for the DRG payment methodology or the statewide median rate for per diem methods.

(9) When services are delivered via telemedicine to hospital inpatients, the originating site facility fee will be paid outside the DRG payment.

PART 35. RURAL HEALTH ~~CLINIC~~ CLINICS

317:30-5-361. Billing

(a) **Encounters.** Payment is made for one type of encounter per member per day. Rural health clinics must bill the combined fees of all "core" services provided during an encounter on the appropriate claim form. Claims must include reasonable and customary charges.

(1) **RHC.** The appropriate revenue code is required. No HCPC or CPT code is required.

(2) **Mental health.** Mental health services must include a revenue code and a HCPCS code.

(3) **Obstetrical care.** The appropriate revenue code and HCPCS code are required. The date the member is first seen is required. The primary pregnancy diagnosis code is also required. Secondary diagnosis codes are used to describe complications of pregnancy. Delivery must be billed by the independent practitioner who has a contract with the OHCA.

(4) **Family planning.** Family planning encounters require a revenue code, HCPCS code, and a family planning diagnosis.

(5) **EPSDT screening.** EPSDT screenings must be billed by the attending provider using the appropriate

Preventative Medicine procedure code from the Current Procedural Terminology Manual (CPT).

(6) **Dental.** Dental services for children must be billed on the appropriate dental claim form.

(7) **Visual analysis.** Optometric services for children are billed using the appropriate revenue code and a HCPCS code.

(b) **Services billed separately from encounters.** Other ambulatory services and preventive services itemized separately from encounters must be billed using the appropriate revenue, HCPC and/or CPT codes. Claims must include reasonable and customary charges.

(1) **Laboratory.** The rural health clinic must be CLIA certified for specialized laboratory services performed. Laboratory services which are not included in the all-inclusive rate must be itemized separately using the appropriate CPT or HCPCS code.

(2) **Radiology.** Radiology must be identified using the appropriate CPT or HCPC code with the technical component modifier. Radiology services are paid at the technical component rate. The professional component is included in the encounter rate.

(3) **Immunizations.** The administration fee for immunizations provided on the same day as the EPSDT exam is billed separately.

(4) **Contraceptives.** Contraceptives are billed independently from the family planning encounter. A revenue code and the appropriate CPT or HCPC codes are required. The following are examples:

(A) DepoProvera 150 mg. (Medroxyprogesterone Acetate).

(B) Insertion and implantation of a subdermal contraceptive device.

(C) Removal, implantable contraceptive devices.

(D) Removal, with reinsertion, implantable contraceptive device.

(E) Insertion of intrauterine device (IUD).

(F) Removal of intrauterine device.

(G) ParaGard IUD.

(H) Progestasert IUD.

(5) **Glasses.** Glasses prescribed by a licensed optometrist are billed using the appropriate revenue code and HCPCS code.

(6) **Telemedicine.** The originating site facility fee for telemedicine services is not a rural health clinic service. When a rural health clinic serves as the originating site, the originating site facility fee is paid separately from the clinic's all-inclusive rate.

PART 75. FEDERALLY QUALIFIED HEALTH CENTERS

317:30-5-664.10. Health Center reimbursement

(a) In accordance with Section 702 of the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act (BIPA) of 2000, effective January 1, 2002, reimbursement is provided for core services and other health services at a Health

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Center facility-specific Prospective Payment System (PPS) rate per visit (encounter) determined according to the methodology described in OAC 317:30-5-664.12.

(b) As claims/encounters are filed, reimbursement for SoonerCare Choice members is made for all medically necessary covered primary care services (that are not included in the SoonerCare capitation payment, if applicable) and other health services at the current rate for that CPT/HCPCS code.

(c) As claims are filed, reimbursement for SoonerCare Traditional members is made for all medically necessary covered primary care and other health services at the PPS rate.

(d) The originating site facility fee for telemedicine services is not a Federally Qualified Health Center (FQHC) service. When a FQHC serves as the originating site, the originating site facility fee is paid separately from the center's all-inclusive rate.

PART 110. INDIAN HEALTH SERVICES, TRIBAL PROGRAMS, AND URBAN INDIAN CLINICS(I/T/US)

317:30-5-1090. Provision of other health services outside of the I/T/U encounter

(a) An I/T/U outpatient facility may provide other items and services which are not part of an encounter. If covered, these services are separately billable to the SoonerCare program. Coverage of services will be based upon medical necessity and the scope of coverage under the SoonerCare program and subject to any limitations, restrictions or prior authorization requirements.

(b) Medically necessary SoonerCare covered services that are not included in the I/T/U outpatient encounter rate may be billed outside the encounter rate within the scope of the SoonerCare fee-for-service rate. Examples of these services include but are not limited to:

- (1) pharmaceuticals/drugs;
- (2) durable medical equipment;
- (3) glasses;
- (4) ambulance;
- (5) home health;
- (6) inpatient practitioner services;
- (7) non-emergency transportation [refer to OAC 317:35-3-2];
- (8) behavioral health case management [refer to OAC 317:30-5-585 through 317:30-5-589 and OAC 317:30-5-595 through 317:30-5-599];
- (9) psychosocial rehabilitative services [refer to OAC 317:30-5-240 through 317:30-5-248]; and
- (10) psychiatric residential treatment facility services [refer to OAC 317:30-5-96.3].

(c) If the I/T/U facility chooses to provide other SoonerCare State Plan covered health services which are not included in the I/T/U encounter definition, those service providers must be contracted with OHCA and bill for those services under their assigned provider number consistent with program coverage limitations and billing procedures described by the OHCA.

(d) The originating site facility fee for telemedicine services is not an I/T/U service. When an I/T/U serves as the originating site, the originating site facility fee is paid separately from the clinic's all-inclusive rate.

[OAR Docket #08-1375; filed 11-18-08]

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

[OAR Docket #08-1379]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

317:30-5-22. [AMENDED]

Part 108. Nutrition Services

317:30-5-1076. [AMENDED]

(Reference APA WF # 08-32)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.130

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Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

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(Reference APA WF # 08-12)

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N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions that allow nutritional counseling in a group setting for women at risk for or recently diagnosed with gestational diabetes. Current SoonerCare rules only allow nutritional counseling on an individual basis and often members must wait several weeks for an appointment. Therefore, to increase access to this service for our SoonerCare members, rules are revised to allow two of the six hours of nutritional counseling to be done in a class setting.

ANALYSIS:

Agency rules are revised to allow nutritional counseling in a group setting for women at risk for or recently diagnosed with gestational diabetes. Gestational diabetes mellitus is a glucose intolerance that begins, or is first recognized, during pregnancy. A wide range of complications is associated with the disorder. For the mother, gestational diabetes increases the risk of preeclampsia, cesarean delivery, and future type two diabetes. In the fetus or neonate, the disorder is associated with higher rates of perinatal mortality, macrosomia, birth trauma, hyperbilirubinemia and neonatal hypoglycemia.

Integral to the treatment and management of gestational diabetes is proper nutrition. Current SoonerCare rules only allow nutritional counseling on an individual basis. This is causing a delay in care for SoonerCare members who must wait several weeks for their initial appointment. Although medical nutrition therapy must be individualized with consideration given to maternal weight and height, eating habits, etc., it is customary for the first session to focus on explaining the basic pathophysiology of gestational diabetes, why monitoring and treatment are important and the complications of the disease. Allowing two of the six hours of nutritional counseling to be done in a group setting improves quality of care by decreasing the delay in providing this service and increases SoonerCare member's access. Further revisions are incorporated due to superseding emergency rules previously approved by the Governor on July 17, 2008 in APA WF # 08-12 and related to: (1) allowing reimbursement of one non stress test and/or one biophysical profile to a Maternal Fetal Medicine (MFM) specialist without requiring a prior authorization; and (2) removing the OB signature requirement from the high risk OB treatment plan form unless he or she wishes to request authorization of the ante partum management fee.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR DECEMBER 1, 2008, WHICHEVER IS LATER:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 1. PHYSICIANS

317:30-5-22. Obstetrical care

(a) Obstetrical (OB) care is billed using the appropriate CPT codes for Maternity Care and Delivery. The date of delivery is used as the date of service for charges for total obstetrical care. Inclusive dates of care should be indicated on the claim form as part of the description. Payment for total obstetrical care includes all routine care, and any ultrasounds performed by the attending physician provided during the maternity cycle unless otherwise specified in this Section. For payment of total OB care, a physician must have provided care for more than one trimester. To bill for prenatal care only, the claim is filed after the member leaves the provider's care. Payment for routine or minor medical problems will not be made separately to the OB physician outside of the ante partum visits. The ante partum care during the prenatal care period includes all care by the OB attending physician except major illness distinctly unrelated to the pregnancy.

(b) Procedures paid separately from total obstetrical care are listed in (1) - ~~(6)~~ (8) of this subsection.

(1) The completion of an American College of Obstetricians and Gynecologist (ACOG) assessment form and the most recent version of the Oklahoma Health Care Authority's Prenatal Psychosocial Assessment are reimbursable when both documents are included in the prenatal record. SoonerCare allows one assessment per provider and no more than two per pregnancy.

(2) Medically necessary real time ante partum diagnostic ultrasounds will be paid for in addition to ante partum care, delivery and post partum obstetrical care under defined circumstances. To be eligible for payment, ultrasound reports must meet the guideline standards published by the American Institute of Ultrasound Medicine (AIUM).

(A) One abdominal or vaginal ultrasound will be covered in the first trimester of pregnancy. The ultrasound must be performed by a board certified Obstetrician-Gynecologist (OB-GYN), Radiologist, or a Maternal-Fetal Medicine specialist. In addition, this ultrasound may be performed by a Nurse Midwife, Family Practice Physician or Advance Practice Nurse Practitioner in Obstetrics with a certification in ~~Obstetrical~~ obstetrical ultrasonography.

(B) One ultrasound after the first trimester will be covered. This ultrasound must be performed by a board certified Obstetrician-Gynecologist (OB-GYN), Radiologist, or a Maternal-Fetal Medicine specialist. In addition, this ultrasound may be performed by a Nurse Midwife, Family Practice Physician or Advance Practice Nurse Practitioner in Obstetrics with certification in ~~Obstetrical~~ obstetrical ultrasonography.

(C) Additional ultrasounds, including detailed ultrasounds and re-evaluations of previously identified or suspected fetal or maternal anomalies, must be performed by an active candidate or Board Certified ~~diplomat~~ diplomate in Maternal-Fetal Medicine.

(3) Standby attendance at Cesarean Section (C-Section), for the purpose of attending the baby, is compensable when billed by a physician not participating in the delivery.

(4) Spinal anesthesia administered by the attending physician is a compensable service and is billed separately from the delivery.

(5) Amniocentesis is not included in routine obstetrical care and is billed separately. Payment may be made for an evaluation and management service and amniocentesis on the same date of service. This is an exception to general information regarding surgery found at OAC 317:30-5-8.

(6) Additional payment is not made for the delivery of twins. If one twin is delivered vaginally and one is delivered by C-section by the same physician, the higher level procedure is paid. If one twin is delivered vaginally and one twin is delivered by C-Section, by different physicians, each should bill the appropriate procedure codes without a modifier. Payment is not made to the same physician for both standby and assistant at C-Section.

(7) One non stress test and/or biophysical profile to confirm a suspected high risk pregnancy diagnosis. The non stress test and/or biophysical profile must be performed by an active candidate or Board Certified diplomate in Maternal Fetal Medicine.

(8) Nutritional counseling in a group setting for members with gestational diabetes. Refer to OAC 317:30-5-1076(5).

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(c) Assistant surgeons are paid for C-Sections which include only in-hospital post-operative care. Family practitioners who provide prenatal care and assist at C-Section bill separately for the prenatal and the six weeks postpartum office visit.

(d) Procedures listed in (1) - (5) of this subsection are not paid or not covered separately from total obstetrical care.

(1) ~~Non-stress Additional non stress tests, unless the pregnancy is determined medically high risk, except as described in See OAC 317:30-5-22.1.~~

(2) Standby at C-Section is not compensable when billed by a physician participating in delivery.

(3) Payment is not made for an assistant surgery surgeon for obstetrical procedures ~~which that~~ include prenatal or post partum care.

(4) An additional allowance is not made for induction of labor, double set-up examinations, fetal stress tests, or pudendal anesthetic. Providers must not bill separately for these procedures.

(5) Fetal scalp blood sampling is considered part of the total OB care.

(e) Obstetrical coverage for children is the same as for adults with additional procedures being covered due to EPSDT provisions if determined to be medically necessary.

(1) Services, deemed medically necessary and allowable under federal Medicaid regulations, are covered by the EPSDT/OHCA Child Health program even though those services may not be part of the Oklahoma Health Care Authority SoonerCare program. Such services must be prior authorized.

(2) Federal Medicaid regulations also require the State to make the determination as to whether the service is medically necessary and do not require the provision of any items or services that the State determines are not safe and effective or which are considered experimental.

PART 108. NUTRITION SERVICES

317:30-5-1076. Coverage by category

Payment is made for Nutritional Services as set forth in this section.

(1) **Adults.** Payment is made for six hours of medically necessary nutritional counseling per year by a licensed registered dietician. All services must be prescribed by a physician, physician assistant, advanced practice nurse, or nurse midwife and be face to face encounters between a licensed registered dietitian and the member. Services must be expressly for diagnosing, treating or preventing, or minimizing the effects of illness. Nutritional services for the treatment of obesity is not covered unless there is documentation that the obesity is a contributing factor in another illness.

(2) **Children.** Coverage for children is in accordance with OAC 317:30-3-47.

(3) **Home and Community Based Waiver Services for the Mentally Retarded.** All providers participating in the Home and Community Based Waiver Services for

the Mentally Retarded program must have a separate contract with OHCA to provide Nutrition Services under this program. All services are specified in the individual's plan of care.

(4) **Individuals eligible for Part B of Medicare.** Payment is made utilizing the Medicaid allowable for comparable services. Services which are not covered under Medicare should be billed directly to OHCA.

(5) **Obstetrical patients.** Payment is made for a maximum of six hours of medically necessary nutritional counseling per year by a licensed registered dietitian for members at risk for or those who have been recently diagnosed with gestational diabetes. The initial consultation may be in a group setting for a maximum of two hours of class time. Thereafter, four hours of nutritional counseling by a licensed registered dietitian may be provided to the individual if deemed medically necessary, which may include a post-partum visit, typically done at 6 weeks after delivery. All services must be prescribed by a physician, physician assistant, advanced practice nurse or a nurse midwife and be face-to-face between a licensed registered dietitian and the member(s). Services must be solely for the prevention, diagnosis, or treatment of gestational diabetes.

[OAR Docket #08-1379; filed 11-18-08]

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

[OAR Docket #08-1382]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties

Part 17. Medical Suppliers

317:30-5-216. [AMENDED]

(Reference APA WF # 08-36)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes;

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to remove obsolete prior authorization contact information. The change ensures that agency rules reflect accurate mailing

information and it expedites prior authorization requests so that members may access needed care in a timely manner.

ANALYSIS:

Agency rules are revised to remove obsolete prior authorization contact information. The current rule directs healthcare providers to send prior authorization requests to the agency. As of April 7, 2008, providers were notified to send all prior authorization requests directly to the agency's contracted fiscal agent. Any prior authorization requests that are sent to the agency in error are delayed as the requests must be forward to the contracted fiscal agent for processing. Without this revision, members may experience unnecessary delays in access to healthcare services.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR DECEMBER 1, 2008, WHICHEVER IS LATER:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 17. MEDICAL SUPPLIERS

317:30-5-216. Prior authorization requests

(a) **Prior authorization requirements.** Requirements vary for different types of services. Providers should refer to the service-specific sections of policy or the OHCA website for services requiring PA.

(1) **Required forms.** Form HCA-12A may be obtained at local county OKDHS offices and is available on the OHCA web site at www.okhca.org.

(2) **Certificate of medical necessity.** The prescribing provider must complete the medical necessity section of the CMN. This section cannot be completed by the supplier. The medical necessity section can be completed by any health care clinician; however, only the member's treating provider may sign the CMN. By signing the CMN, the physician is validating the completeness and accuracy of the medical necessity section. The member's medical records must contain documentation substantiating that the member's condition meets the coverage criteria and the answers given in the medical necessity section of the CMN. These records may be requested by OHCA or its representatives to confirm concurrence between the medical records and the information submitted with the prior authorization request.

(3) **DIF.** The requesting supplier must complete and submit a DIF as indicated by Medicare standards unless OHCA policy indicates that a CMN or other documentation is required. By signing the DIF, the supplier is validating the information provided is complete and accurate. The member's medical records must contain documentation substantiating that the member's condition

meets the coverage criteria and the information given in the DIF.

(b) **Submitting prior authorization requests.** ~~All requests for PA are submitted to OHCA, Attention: Medical Authorization Unit, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, OK 73105, or faxed to (405)530-3496 or submitted on line via Secured Website followed by fax. All requests for prior authorization should be submitted in the same manner regardless of the age of the member. Contact information for submitting prior authorization requests may be found in the OHCA Provider Billing and Procedures Manual. An electronic version of this manual is located on the OHCA web site.~~

(c) **Prior authorization review.** Upon verifying the completeness and accuracy of clerical items, the PA request is reviewed by OHCA staff to evaluate whether or not each service being requested meets SoonerCare's definition of "medical necessity" [see OAC 317:30-3-1 (f)] as well as other criteria.

(d) **Prior authorization decisions.** After the HCA-12A is processed, a notice will be issued advising whether or not the item is authorized. If authorization is issued, the notice will include an authorization number, the time period for which the device is being authorized and the appropriate procedure code.

(e) **Prior authorization does not guarantee reimbursement.** Provider status, member eligibility, and medical status on the date of service, as well as all other SoonerCare requirements, must be met before the claim is reimbursed.

(f) **Prior authorization of manually-priced items.** Manually-priced items must include documentation showing the supplier's estimated cost of the item with the request for prior authorization. Reimbursement will be determined as per OAC 317:30-5-218.

[OAR Docket #08-1382; filed 11-18-08]

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

[OAR Docket #08-1378]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties

Part 25. Psychologists

317:30-5-275. [AMENDED]

(Reference APA WF # 08-31)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act and Section 5003 through 5016 of Title 63 of Oklahoma Statutes.

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Emergency Adoptions

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to allow for reimbursement for services provided by clinical psychology interns completing required internships and post doctoral fellows completing required supervision for licensure. Reimbursing this population of providers increases the agency's provider network of psychologists thereby increasing the access to desperately needed mental health services for SoonerCare members.

ANALYSIS:

Agency rules are revised to allow for reimbursement for services provided by clinical psychology interns completing required internships and post doctoral fellows completing required supervision for licensure. These individuals are considered to be qualified to provide services by the state licensing board and are currently providing much needed psychiatric services in the academic training setting, without reimbursement. Revisions are needed to increase the agency's provider network of psychologists thereby increasing the access to desperately needed mental health services for SoonerCare members. Payment will be made to the licensed practitioner responsible for the SoonerCare member's care who is directly supervising the intern or post doctoral fellow. The revisions also require active participation and oversight by the licensed practitioner as well as specific documentation requirements.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR DECEMBER 1, 2008, WHICHEVER IS LATER:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 25. PSYCHOLOGISTS

317:30-5-275. Eligible providers

(a) Payment is made for compensable services to psychologists licensed in the state in which face to face services are delivered. Psychologists employed in State and Federal Agencies, who are not permitted to engage in private practice, cannot be reimbursed for services as an individually contracted provider. Each psychologist must have a current contract with the Oklahoma Health Care Authority (OHCA). Payment is also made to practitioners who have completed education requirements to begin an internship or a post-doctoral fellowship in an accredited clinical psychology academic training program and are under current board approved supervision toward licensure. Each psychologist must have a current contract with the Oklahoma Health Care Authority (OHCA). Psychologists employed in State and Federal Agencies, who are not permitted to engage in private practice, cannot be reimbursed for services as an individually contracted provider.

(b) In order for services provided by clinical psychology interns completing required internships and post-doctoral fellows completing required supervision for licensure to be reimbursed, the following conditions must be met:

(1) The practitioner billing SoonerCare must have a letter on file covering the dates of services of the internship or post doctoral fellowship;

(2) The psychology intern or post-doctoral fellow must be under the direct supervision of the licensed psychologist responsible for the member's care;

(3) The licensed psychologist responsible for the member's care must:

(A) staff the member's case with the intern or fellow.

(B) actively direct the services,

(C) be available to the intern or fellow for in-person consultation while they are providing services.

(D) agree with the current plan for the member, and

(E) confirm that the service provided by the intern or fellow was appropriate; and

(4) The member's medical record must show that the requirements for reimbursement were met and the licensed psychologist responsible for the member's care has reviewed, countersigned, and dated the notes in the medical record at least every week so that it is documented that the licensed psychologist is responsible for the member's care.

[OAR Docket #08-1378; filed 11-18-08]

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

[OAR Docket #08-1380]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties

Part 113. Living Choice Program [NEW]

317:30-5-1200. through 317:30-5-1206. [NEW]

(Reference APA WF # 08-34A)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 6071 of Public Law 109-171.

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to implement the Living Choice program as authorized under Section 6071 of Public Law 109-171. The Living Choice program is designed to promote community living for individuals with disabilities or long-term illnesses. Revisions are needed to help strengthen Oklahoma's long-term care services and supports for individuals who choose to transition from long-term care institutions into the community. Without the implementation of this program, many individuals who would otherwise be able to live in the community and preserve their independence will be forced to reside in an institutional setting in order to receive necessary long-term care services.

ANALYSIS:

Rules are revised to implement the Living Choice program created to promote community living for individuals with disabilities or long-term illnesses as authorized by Section 6071 of Public Law 109-171. With grant funding from the Centers for Medicare and Medicaid Services (CMS) under the Money Follows the Person (MFP) demonstration for a five year period, the agency will facilitate the transition of over 2,000 individuals from institutional settings to their own homes in the community and help rebalance Oklahoma's long-term care system. The MFP demonstration offers states greater flexibility to provide community based long-term care services that are not typically covered by Medicaid federal matching funds. Oklahoma will receive enhanced federal match to strengthen community based long-term care services and supports for individuals with disabilities and long-term illnesses. If this program is not implemented, many individuals who are at risk of being placed in or are currently living in an institutional setting will have no other alternative even though they could possibly be better served in their homes and communities, preserving their independence and ties to family and friends at a cost that is no greater than that of institutional care.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR DECEMBER 1, 2008, WHICHEVER IS LATER:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 113. LIVING CHOICE PROGRAM

317:30-5-1200. Benefits for members age 65 or older with disabilities or long-term illnesses

(a) Living Choice program participants age 65 or older with disabilities or long-term illnesses may receive a range of necessary medical and home and community based services for one year after moving from an institutional setting. The one year period begins the day the member occupies a qualified residence in the community. Once this transition period is complete, the member receives services through one of the Opportunities for Living Life home and community based services waivers.

(b) Services must be billed using the appropriate HCPCS or CPT codes and must be medically necessary.

(c) All services must be necessary for the individual to live in the community, require prior authorization, and must be documented in the individual transition plan. The number of units

of services the member is eligible to receive is limited to the amounts approved in the transition plan.

(d) Services that may be provided through the Living Choice program for older persons with disabilities or long-term illnesses are listed in paragraphs (1) through (24) of this subsection:

- (1) case management;
- (2) respite care;
- (3) adult day health care;
- (4) environmental modifications;
- (5) specialized medical equipment and supplies;
- (6) therapy services including physical, occupational, speech and respiratory;
- (7) advanced supportive/restorative assistance;
- (8) skilled nursing;
- (9) home delivered meals;
- (10) hospice care;
- (11) medically necessary prescription drugs;
- (12) personal care as described in Part 95 of this Chapter;
- (13) Personal Emergency Response System (PERS);
- (14) Consumer-Directed Personal Assistance Services and Supports (CD-PASS);
- (15) transition coordination;
- (16) community transition services as described in OAC 317:30-5-1205;
- (17) dental services (up to \$1,000 per person annually);
- (18) nutrition evaluation and education services;
- (19) agency companion services;
- (20) pharmacological evaluations;
- (21) vision services including eye examinations and eyeglasses;
- (22) non-emergency transportation;
- (23) family training services; and
- (24) SoonerCare compensable medical services.

317:30-5-1201. Benefits for members with mental retardation

(a) Living Choice program participants with mental retardation may receive a range of necessary medical and home and community based services for one year after moving from the institution. The one year period begins the day the member occupies a qualified residence in the community. Once this transition period is complete, the member receives services through the Community waiver.

(b) Services must be billed using the appropriate HCPCS or CPT codes and must be medically necessary.

(c) All services must be necessary for the individual to live in the community, require prior authorization, and must be documented in the individual transition plan. The number of units of services the member is eligible to receive is limited to the amounts approved in the transition plan. The transition plan may be amended as the member's needs change.

(d) Services that may be provided to members with mental retardation are listed in paragraphs (1) through (28) of this subsection:

- (1) assistive technology;
- (2) adult day health care;

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- (3) architectural modifications;
- (4) audiology evaluation and treatment;
- (5) community transition;
- (6) daily living support;
- (7) dental services;
- (8) family counseling;
- (9) family training;
- (10) group home;
- (11) respite care;
- (12) homemaker services;
- (13) habilitation training services;
- (14) home health care;
- (15) intensive personal support;
- (16) extended duty nursing;
- (17) skilled nursing;
- (18) nutrition services;
- (19) therapy services including physical, occupational, and speech;
- (20) psychiatry services;
- (21) psychological services;
- (22) agency companion services;
- (23) non-emergency transportation;
- (24) pre-vocational services;
- (25) supported employment services;
- (26) specialized foster care;
- (27) specialized medical equipment and supplies; and
- (28) SoonerCare compensable medical services.
- (9) home delivered meals;
- (10) therapy services including physical, occupational, speech and respiratory;
- (11) hospice care;
- (12) Personal Emergency Response System (PERS);
- (13) Consumer Directed Personal Assistance Services (CD-PASS);
- (14) agency companion services;
- (15) extended duty nursing;
- (16) psychological services;
- (17) audiology treatment and evaluation;
- (18) non-emergency transportation;
- (19) assistive technology;
- (20) dental services (up to \$1,000 per person annually);
- (21) vision services including eye examinations and eyeglasses;
- (22) pharmacotherapy management;
- (23) independent living skills training;
- (24) nutrition services;
- (25) family counseling;
- (26) family training;
- (27) transition coordination;
- (28) psychiatry services;
- (29) community transition services as described in OAC 317:30-5-1205;
- (30) pharmacological evaluations; and
- (31) SoonerCare compensable medical services.

317:30-5-1202. Benefits for members with physical disabilities

(a) Living Choice program participants with physical disabilities may receive a range of necessary medical and home and community based services for one year after moving from the institution. The one year period begins the day the member occupies a qualified residence in the community. Once this transition period is complete, the member receives services through one of the Opportunities for Living Life home and community based services waivers.

(b) Services must be billed using the appropriate HCPCS or CPT codes and must be medically necessary.

(c) All services must be necessary for the individual to live in the community, require prior authorization, and must be documented in the individual transition plan. The number of units of services the member is eligible to receive is limited to the amounts approved in the transition plan.

(d) Services that may be provided to members with physical disabilities are listed in paragraphs (1) through (31) of this subsection:

- (1) case management;
- (2) personal care services as described in Part 95 of this Chapter;
- (3) respite care;
- (4) adult day health care with personal care and therapy enhancements;
- (5) architectural modifications;
- (6) specialized medical equipment and supplies;
- (7) advanced supportive/restorative assistance;
- (8) skilled nursing;

317:30-5-1203. Billing procedures for Living Choice services

(a) The approved individual transition plan is the medical basis for services and includes the prior authorizations, specifying:

- (1) what service;
- (2) which service provider;
- (3) the number of units authorized; and
- (4) the authorized begin and end dates of the service.

(b) As part of Living Choice quality assurance, audits are used to evaluate whether claims are consistent with individual transition plans and services provided are documented. Claims that are not supported by individual transition plans and/or documentation of services are referred to the Surveillance Utilization Review Subsystem unit (SURS). Erroneous or invalidated claims identified through post payment reviews are recouped from the provider.

(c) Claims may not be filed until the services are rendered.

317:30-5-1204. Disclosure of information on health care providers and contractors

In accordance with the requirements of the Social Security Act and the regulations issued by the Secretary of Health and Human Services, the OHCA is responsible for disclosure of pertinent findings resulting from surveys made to determine eligibility of certain providers for home health care and contractors under SoonerCare. The Oklahoma State Department of Health (OSDH) is responsible for surveying home health care providers and contractors to obtain information for use by

the Federal Government in determining whether these entities meet the standards required for participation as Medicare and SoonerCare providers.

317:30-5-1205. Community transition services

(a) Community transition services are one-time set-up expenses for members who transition from a nursing facility or public ICF/MR to a home in the community.

(b) Each member who transitions into the community is eligible for up to \$2,400 per person for the purchase of essential goods and/or services authorized by a transition coordinator on the member's behalf.

(c) Community transition services must be reasonable and necessary as determined through the transition plan development process and must be clearly identified in the plan.

(d) Allowable expenses for community transition services include, but are not limited to:

(1) security deposits that are required to obtain a lease on a qualified residence;

(2) essential household items required for occupation and use in a community residence such as furniture, window coverings, food preparation and bed/bath linens;

(3) connection, set-up fees or deposits for utility service or access including telephone, electricity, heating and water;

(4) services necessary for the member's health, safety and welfare such as pest eradication and one-time cleaning prior to occupancy;

(5) moving expenses;

(6) fees to obtain a copy of birth certificate, identification card or driver's license; and

(7) delivery, set-up costs and removal fees for appliances, furniture, etc.

(e) Non-allowable expenses for community transition services include, but are not limited to:

(1) monthly rental or mortgage expenses;

(2) monthly utility charges;

(3) household items that are purely for recreational purposes; and

(4) services or items that are available through other Living Choice services such as homemaker services, environmental modifications and adaptations, or specialized supplies and equipment.

317:30-5-1206. Transition coordinator services

Transition coordinators must meet the requirements in paragraphs (1) and (2) of this subsection.

(1) Transition coordinators must:

(A) complete case management training with the ADvantage waiver; or

(B) complete the curriculum requirements for a bachelor's degree and one year paid professional experience in aging or disability populations; or

(C) complete a degree program as a registered nurse or licensed practice nurse and one year paid professional experience; or

(D) have at least two years paid work experience as an independent living specialist or transition specialist at one of the five federally recognized Centers for Independent Living organizations in Oklahoma.

(2) Transition coordinators must successfully complete the Living Choice program transition coordinator training.

[OAR Docket #08-1380; filed 11-18-08]

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

[OAR Docket #08-1374]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties

Part 33. Transportation by Ambulance

317:30-5-336.5. [AMENDED]

(Reference APA WF # 08-14)

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N/A

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N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions that remove current reimbursement language in the transportation by ambulance rules and replace it with a general statement that refers providers to the Oklahoma Health Care Authority's fee schedule for SoonerCare compensable services. Replacing specific reimbursement language with a general statement allows the Agency the flexibility of adjusting rates without continually revising policy and is necessary to keep policy consistent with State plan changes.

ANALYSIS:

Ambulance rules are revised to remove the Medicare Ambulance Fee Schedule (AFS) and replace it with a general statement that refers providers to the Oklahoma Health Care Authority's fee schedule for SoonerCare compensable services. Effective October 1, 2005, OHCA adopted Medicare's AFS and began reimbursing most ambulance providers at 97%. Air ambulance services were the exception. OHCA reimbursement for air ambulance services were and still are 61% of Medicare's AFS. In order to retain fixed wing providers and ensure SoonerCare members have access to this service, the rates for fixed wing aircraft have been increased to 100% of Medicare's AFS. This increase has required changes to the reimbursement language for fixed wing aircraft in the State plan and consequently, revisions to policy language as well to remain consistent with State plan language. In an effort to avoid the lengthy and labor intensive process that occurs each time agency rules are revised, OHCA is replacing specific reimbursement language with a general statement referencing the State plan or OHCA fee schedule. This practice allows the Agency the flexibility of adjusting rates to meet market demands

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without continually revising the reimbursement language in agency rules. This also makes the transportation by ambulance reimbursement section consistent with other reimbursement sections in rules.

CONTACT PERSON:

Joanne Terlizzi at (405)522-7272

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR DECEMBER 1, 2008, WHICHEVER IS LATER:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 33. TRANSPORTATION BY AMBULANCE

317:30-5-336.5. Levels of ambulance service, ambulance fee schedule and base rate

(a) In accordance with the Oklahoma Emergency Response System Development Act of 2005, §63 OS 1-2503, a license may be issued for basic life support, intermediate life support, paramedic life support, specialized mobile intensive care units, or stretcher aid vans.

(b) ~~Effective October 1, 2005, the OHCA adopted the Medicare Ambulance Fee Schedule (AFS). Payment is made at the lower of the provider's usual and customary charge or the OHCA fee schedule for SoonerCare compensable services.~~

(1) The ambulance provider bills one base rate procedure. Levels of service base rates are defined at 42 CFR 414.605.

(2) The base rate must reflect the level of service rendered, not the type of vehicle in which the member was transported, except in those localities where local ordinance requires Advanced Life Support (ALS) as the minimum standard of service.

[OAR Docket #08-1374; filed 11-18-08]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY

CHAPTER 30. MEDICAL PROVIDERS - FEE FOR SERVICE

[OAR Docket #08-1383]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties

Part 6. Inpatient Psychiatric Hospitals

317:30-5-95.33. [AMENDED]

(Reference APA WF #08-38)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.160

DATES:

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Immediately upon Governor's approval or December 1, 2008, whichever is later

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SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

Subchapter 5. Individual Providers and Specialties

Part 6. Inpatient Psychiatric Hospitals

317:30-5-95.33. [AMENDED]

(Reference APA WF # 08-07)

Gubernatorial approval:

June 10, 2008

Register publication:

25 Ok Reg 2764

Docket number:

08-1206

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to allow for review of individual plans of care for children in an inpatient setting every five to nine calendar days in acute care situations and every eleven to sixteen calendar days in the longer term treatment program or specialty psychiatric residential treatment facility. The previous wording was not easily understood by providers and could potentially lead to confusion and erroneous and/or untimely submissions which could result in unnecessary sanctions and recoupments.

ANALYSIS:

Agency rules are revised to create a more lenient time frame within which a provider of inpatient behavioral health services must review an individual plan of care (IPC) for children residing in their facility. The rule was recently revised to address this issue but the language used led to confusion and the interpretation that more strenuous constraints had been placed on the providers, which was not the intent. The revisions herein establish a clearly defined time frame within which the providers have to submit their plans of care. Further revisions are incorporated due to superseding emergency rules previously approved on July 1, 2008 in APA WF # 08-07 and related to allowing for review of individual plans of care in an inpatient setting no less than every nine calendar days in acute care situations and no less than every 16 calendar days in the longer term treatment program or specialty Psychiatric Residential Treatment Facility (PRTF).

CONTACT PERSON:

Joanne Terlizzi at (405)522-7272

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR DECEMBER 1, 2008, WHICHEVER IS LATER:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 6. INPATIENT PSYCHIATRIC HOSPITALS

317:30-5-95.33. Individual plan of care for children

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

(1) **"Licensed Behavioral Health Professional (LBPH)"** means licensed psychologists, licensed clinical social workers (LCSW), licensed marital and family therapists (LMFT), licensed professional counselors (LPC), licensed behavioral practitioners (LBP), and advanced practice nurses (APN).

(2) **"Individual plan of Care (IPC)"** means a written plan developed for each member within four calendar days of any admission to a PRTF and is the document that directs the care and treatment of that member. The individual plan of care must be recovery focused, trauma informed, and specific to culture, age and gender and includes:

- (A) the complete record of the DSM-IV-TR five-axis diagnosis, including the corresponding symptoms, complaints, and complications indicating the need for admission;
- (B) the current functional level of the individual;
- (C) treatment goals and measurable time limited objectives;
- (D) any orders for psychotropic medications, treatments, restorative and rehabilitative services, activities, therapies, social services, diet and special procedures recommended for the health and safety of the patient;
- (E) plans for continuing care, including review and modification to the plan of care; and
- (F) plan for discharge, all of which is developed to improve the child's condition to the extent that the in-patient care is no longer necessary.

(b) The individual plan of care:

- (1) must be based on a diagnostic evaluation that includes examination of the medical, psychological, social, behavioral and developmental aspects of the individual member and reflects the need for inpatient psychiatric care;
- (2) must be developed by a team of professionals as specified in OAC 317:30-5-95.35 in collaboration with the member, and his/her parents for members under the age of 18, legal guardians, or others in whose care he/she will be released after discharge;
- (3) must establish treatment goals that are general outcome statements and reflective of informed choices of the member served. Additionally, the treatment goal must be appropriate to the patient's age, culture, strengths, needs, abilities, preferences and limitations;
- (4) must establish measurable and time limited treatment objectives that reflect the expectations of the member served and parent/legal guardian (when applicable) as well as being age, developmentally and culturally appropriate. When modifications are being made to accommodate age, developmental level or a cultural issue, the documentation must be reflected on the individual plan of care. The treatment objectives must be achievable and understandable to

the member and the parent/guardian (when applicable). The treatment objectives also must be appropriate to the treatment setting and list the frequency of the service;

(5) must prescribe an integrated program of therapies, activities and experiences designed to meet the objectives;

(6) must include specific discharge and after care plans that are appropriate to the member's needs and effective on the day of discharge. At the time of discharge, after care plans will include referral to medication management, out-patient behavioral health counseling and case management to include the specific appointment date(s), names and addresses of service provider(s) and related community services to ensure continuity of care and reintegration for the member into their family school, and community;

(7) must be reviewed ~~at least every seven calendar days~~ every five to nine calendar days when in acute care and a regular PRTF and ~~every 14 calendar days~~ every 11 to 16 calendar days in the OHCA approved longer term treatment programs or specialty PRTF treatment programs by the team specified to determine that services are being appropriately provided and to recommend changes in the individual plan of care as indicated by the member's overall adjustment, progress, symptoms, behavior, and response to treatment;

(8) development and review must satisfy the utilization control requirements for physician re-certification and establishment of periodic reviews of the individual plan of care; and,

(9) each individual plan of care review must be clearly identified as such and be signed and dated individually by the physician, LBHP, member, parent/guardian (for patients under the age of 18), registered nurse, and other required team members. Individual plans of care and individual plan of care reviews are not valid until completed and appropriately signed and dated. All requirements for the individual plan of care or individual plan of care reviews must be met or a partial per diem recoupment will be merited. In those instances where it is necessary to fax an Individual Plan of Care or Individual Plan of Care review to a parent or OKDHS/OJA worker for review, the parent and/or OKDHS/OJA worker may fax back their signature. The Provider must obtain the original signature for the clinical file within 30 days. Stamped or Xeroxed signatures are not allowed for any parent or member of the treatment team.

[OAR Docket #08-1383; filed 11-18-08]

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

[OAR Docket #08-1377]

**RULEMAKING ACTION:
EMERGENCY adoption**

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RULES:

Subchapter 17. ADvantage Waiver Services
317:35-17-3. [AMENDED]
(Reference APA WF # 08-30)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 441.302

DATES:

Adoption:

October 9, 2008

Approved by Governor:

November 12, 2008

Effective:

Immediately upon Governor's approval or December 1, 2008, whichever is later

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to add an additional exception to the ADvantage cost cap provision. Rules are in need of revision to accommodate unusual circumstances in which the member's health and safety can be assured and the Director of Aging Services Division determines that it is in the state's best interest to service the member in ADvantage.

ANALYSIS:

ADvantage Waiver Services rules are revised to add an additional exception to the cost cap exception. The ADvantage program allows a specified number of persons to receive home and community based long-term care services who without such services would be institutionalized. Generally, the estimated annual cost of providing the individual's care in their home cannot exceed the annual cost of caring for that person in a nursing facility; however, the waiver regulations permit certain exceptions to the 100% nursing facility cost cap policy. Currently, policy lists five instances that might allow the individual to be approved for ADvantage services, even though the estimated services cost exceeds the expense of nursing facility care. Revisions would add an exception that would allow services only if approved by the OKDHS/Aging Services Division Director based on specific criteria as outlined in policy. Rules are also revised to replace the Administrative Agent with the OKDHS Aging Service Division as the approval source for ADvantage cost cap exceptions and replace or remove outdated language.

CONTACT PERSON:

Joanne Terlizzi at (405)522-7272

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR DECEMBER 1, 2008, WHICHEVER IS LATER:

SUBCHAPTER 17. ADVANTAGE WAIVER SERVICES

317:35-17-3. ADvantage program services

(a) The ADvantage program is a Medicaid Home and Community Based Waiver used to finance noninstitutional long-term care services for elderly and a targeted group of physically disabled adults when there is a reasonable expectation that within a 30 day period, the person's health, due

to disease process or disability, would, without appropriate services, deteriorate and require nursing facility care to arrest the deterioration. ADvantage program ~~clients~~ members must be ~~Medicaid~~ SoonerCare eligible and must not reside in an institution, room and board, licensed residential care facility, or licensed assisted living facility. The number of ~~clients~~ individuals who may receive ADvantage services is limited.

(1) To receive ADvantage services, individuals must meet one of the following categories:

(A) be age 65 years or older, or

(B) be age 21 or older if physically disabled and not developmentally disabled or if the person has a clinically documented, progressive degenerative disease process that responds to treatment and previously has required hospital or nursing facility (NF) level of care services for treatment related to the condition and requires ADvantage services to maintain the treatment regimen to prevent health deterioration, or

(C) if developmentally disabled and between the ages of 21 and 65, not have mental retardation or a cognitive impairment related to the developmental disability.

(2) In addition, the individual must meet the following criteria:

(A) require nursing facility level of care [see OAC 317:35-17-2];

(B) meet service eligibility criteria [see OAC 317:35-17-3(d)]; and

(C) meet program eligibility criteria [see OAC 317:35-17-3(e)].

(b) Home and Community Based Waiver Services are outside the scope of ~~state plan~~ Medicaid State Plan services. The Medicaid waiver allows the OHCA to offer certain Home and Community Based services to an annually capped number of persons who are categorically needy (refer to OKDHS form 08AX001E (Appendix C-1), Schedule VIII. B. 1.) and without such services would be institutionalized. The estimated cost of providing an individual's care outside the nursing facility cannot exceed the annual cost of caring for that individual in a nursing facility. When determining the ADvantage service plan cost cap for an individual, the comparable ~~Medicaid~~ SoonerCare cost to serve that individual in a nursing facility is estimated. If the individual has Acquired Immune Deficiency Syndrome (AIDS) or if the individual requires ventilator care, the appropriate ~~Medicaid~~ SoonerCare enhanced nursing facility rate to serve the individual is used to estimate the ADvantage cost cap. To meet program cost effectiveness eligibility criteria, the annualized cost of a ~~client's~~ individual's ADvantage services cannot exceed the ADvantage program services expenditure cap unless approved by the ~~Administrative Agent (AA)~~ Administrative Agent (AA) under one of Oklahoma DHS Aging Services Division (OKDHS/ASD) in accordance with the exceptions listed in (1)- (5) (6) of this subsection. The cost of the service plan furnished to ~~a client~~ an individual may exceed the expenditure cap only when all of the increased expenditures above the cap are due solely to:

(1) a one-time purchase of home modifications and/or specialized medical equipment; and/or

- (2) documented need for a temporary (not to exceed a 60-day limit) increase in frequency of service or number of services to prevent institutionalization; or
 - (3) expenditures are for ADvantage Hospice services;
 - (4) expenditures in excess of the cap are for prescribed drugs, which would be paid by ~~Medicaid~~ SoonerCare if the individual were receiving services in a nursing home; and/or
 - (5) expenditures are for Institution Transition Services, and the annualized expenditures for ADvantage services to ~~a client an individual~~ an individual under any combination of ~~these~~ circumstances described under exceptions (1) through (5) can reasonably be expected to be no more than 200% of the individual cap; or
 - (6) the OKDHS/ASD Director:
 - (A) determines that providing ADvantage services to the member would benefit the member and be in the best interests of the state;
 - (B) specifically authorizes a service plan that is not more than 250% of the cost cap prior to taking into account exception costs;
 - (C) determines that the service plan is less than 175% of the cost cap after taking into account any combination of circumstances described under cost exceptions (1) through (5); and
 - (D) determines that fewer than 150 members are already receiving services under this cost cap exception.
- (c) Services provided through the ADvantage waiver are:
- (1) case management ~~or Comprehensive Home Care (CHC) case management;~~
 - (2) respite ~~or CHC in-home respite;~~
 - (3) adult day health care;
 - (4) environmental modifications;
 - (5) specialized medical equipment and supplies;
 - (6) physical therapy/occupational therapy/respiratory therapy/speech therapy or consultation;
 - (7) advanced supportive/restorative assistance ~~or CHC advanced supportive/restorative assistance;~~
 - (8) skilled nursing ~~or CHC skilled nursing;~~
 - (9) home delivered meals;
 - (10) hospice care;
 - (11) medically necessary prescription drugs within the limits of the waiver;
 - (12) personal care (state plan); or ADvantage personal care; ~~or CHC personal care;~~
 - (13) Personal Emergency Response System (PERS);
 - (14) Consumer-Directed Personal Assistance Services and Supports (CD-PASS);
 - (15) Institution Transition Services; and
 - (16) ~~Medicaid~~ SoonerCare medical services for individuals age 21 and over within the scope of the State Plan.
- (d) The OKDHS area nurse or nurse designee makes a determination of service eligibility prior to evaluating the UCAT assessment for nursing facility level of care. The following criteria are used to make the service eligibility determination:
- (1) an open ADvantage Program waiver slot, as authorized by the waiver document approved by the Centers for Medicare and Medicaid Services (CMS), is available to assure federal participation in payment for services to the ~~client individual~~ individual. If the ~~AA—OKDHS/ASD~~ OKDHS/ASD determines all ADvantage waiver slots are filled, the ~~client individual~~ individual cannot be certified on the OKDHS computer system as eligible for ADvantage services and the ~~client's individual's~~ individual's name is placed on a waiting list for entry as an open slot becomes available. ADvantage waiver slots and corresponding waiting lists, if necessary, are maintained for persons that have a developmental disability and those that do not have a developmental disability.
 - (2) the ~~client individual~~ individual is in the ADvantage targeted service group. The target group is an individual who is frail and 65 years of age or older or age 21 or older with a physical disability and who does not have mental retardation or a cognitive impairment.
 - (3) the ~~client individual~~ individual does not pose a physical threat to self or others as supported by professional documentation.
 - (4) members of the household or persons who routinely visit the household, as supported by professional documentation, do not pose a threat of harm or injury to the ~~client individual~~ individual or other household visitors.
- (e) The ~~AA OKDHS/ASD~~ OKDHS/ASD determines ADvantage program eligibility through the service plan approval process. The following criteria are used to make the ADvantage program eligibility determination that ~~a client an individual~~ an individual is not eligible:
- (1) if the ~~client's individual's~~ individual's needs as identified by UCAT and other professional assessments cannot be met through ADvantage program services, Medicaid State Plan services and other formal or informal services. The State, as part of the waiver program approval authorization, assures CMS that each waiver ~~client's individual's~~ individual's health, safety, or welfare can be maintained in their home. If a ~~client's member's~~ member's identified needs cannot be met through provision of ADvantage program or Medicaid State Plan services and other formal or informal services are not in place or immediately available to meet those needs, the ~~client's individual's~~ individual's health, safety or welfare in their home cannot be assured.
 - (2) if the ~~client individual~~ individual poses a physical threat to self or others as supported by professional documentation.
 - (3) if other members of the household or persons who routinely visit the household who, as supported by professional documentation, pose a threat of harm or injury to the ~~client individual~~ individual or other household visitors.
 - (4) if the ~~client's individual's~~ individual's needs are being met, or do not require ADvantage services to be met, or if the ~~client individual~~ individual would not require institutionalization if needs are not met.
 - (5) if, after the service and care plan is developed, the risk to ~~client individual's~~ individual's health and safety is not acceptable to the ~~client individual~~ individual, or to the interdisciplinary service plan team, or to the ~~AA OKDHS/ASD~~ OKDHS/ASD.
- (f) The case manager provides the ~~AA OKDHS/ASD~~ OKDHS/ASD with professional documentation to support the recommendation for redetermination of program eligibility. The service providers continue providing services according to the service plan as provider safety permits until the ~~client individual~~ individual is removed

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from the ADvantage program. As a part of the procedures requesting redetermination of program eligibility, the ~~AA~~ OKDHS/ASD will provide technical assistance to the Provider for transitioning the client individual to other services.

(g) Individuals determined ineligible for ADvantage program services are notified in writing by OKDHS of the determination and of their right to appeal the decision.

~~(h) The AA provides OKDHS with notification that the client is no longer program eligible.~~

[OAR Docket #08-1377; filed 11-18-08]

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

[OAR Docket #08-1381]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 23. Living Choice Program [NEW]

317:35-23-1. through 317:35-23-4. [NEW]

(Reference APA WF # 08-34B)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 6071 of Public Law 109-171.

DATES:

Adoption:

October 9, 2008

Approved by Governor:

November 12, 2008

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Immediately upon Governor's approval or December 1, 2008, whichever is later

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to implement the Living Choice program as authorized under Section 6071 of Public Law 109-171. The Living Choice program is designed to promote community living for individuals with disabilities or long-term illnesses. Revisions are needed to help strengthen Oklahoma's long-term care services and supports for individuals who choose to transition from long-term care institutions into the community. Without the implementation of this program, many individuals who would otherwise be able to live in the community and preserve their independence will be forced to reside in an institutional setting in order to receive necessary long-term care services.

ANALYSIS:

Agency rules are revised to implement the Living Choice program created to promote community living for individuals with disabilities or long-term illnesses as authorized by Section 6071 of Public Law 109-171. With grant funding from the Centers for Medicare and Medicaid Services (CMS) under the Money Follows the Person (MFP) demonstration for a five year period, the Agency will facilitate the transition of over 2,000 individuals from institutional settings to their own homes in the community and help rebalance Oklahoma's long-term care system. The MFP demonstration offers states greater flexibility to provide community based long-term care services that are not typically

paid by Medicaid funds. Oklahoma will receive enhanced federal match to strengthen community based long-term care services and supports for individuals with disabilities and long-term illnesses. If this program is not implemented, many individuals who are at risk of being placed in or are currently living in an institutional setting will have no other alternative even though they could possibly be better served in their homes and communities, preserving their independence and ties to family and friends at a cost that is no greater than that of institutional care.

CONTACT PERSON:

Joanne Terlizzi at (405)522-7272

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR DECEMBER 1, 2008, WHICHEVER IS LATER:

SUBCHAPTER 23. LIVING CHOICE PROGRAM

317:35-23-1. Living Choice program

The Living Choice program is created to promote community living for members with disabilities or long-term illnesses and is authorized by Section 6071 of Public Law 109-171, the Deficit Reduction Act of 2005.

317:35-23-2. Eligibility criteria

(a) Adults with disabilities or long-term illnesses, members with mental retardation and members with physical disabilities are eligible to transition into the community through the Living Choice program if they meet all of the criteria in paragraphs (1) through (6) of this subsection.

(1) He/she must be at least 19 years of age.

(2) He/she must reside in an institution (nursing facility or public ICF/MR) for at least six months prior to the proposed transition date.

(3) He/she must have at least one month of SoonerCare paid long-term care services prior to transition.

(4) He/she requires at least the same level of care that necessitated admission to the institution.

(5) He/she must reside in a qualified residence after leaving the institution. A qualified residence is defined in (A) through (C) of this paragraph.

(A) a home owned or leased by the individual or the individual's family member;

(B) an apartment with an individual lease, with a locking entrance/exit, and which includes living, sleeping, bathing, and cooking areas over which the individual or the individual's family has domain and control; and

(C) a residence, in a community-based residential setting, in which no more than four unrelated individuals reside.

(6) His/her needs can be met by the Living Choice program while living in the community.

317:35-23-3. Participant disenrollment

- (a) Members are disenrolled from the program if he/she:
 - (1) is admitted to a nursing facility, ICF/MR, residential care facility or behavioral health facility for more than 30 consecutive days;
 - (2) is incarcerated;
 - (3) is determined to no longer meet SoonerCare financial eligibility for home and community based services;
 - (4) determined by the Social Security Administration or OHCA Level of Care Evaluation Unit to no longer have a disability that qualifies for services under the Living Choice program; or
 - (5) moves out of state.
- (b) Payment cannot be made for an individual who is in imminent danger of harm to self or others.

317:35-23-4. Re-enrollment

- (a) A member may re-enroll in the program without residing in an institution for the six months prior if:
 - (1) the necessity for the institutionalization is documented in the revised individual transition plan; and
 - (2) the member can safely return to the community as determined by the transition coordinator, the member and the transition planning team.
- (b) The member remains eligible during hospitalization and convalescent care periods as long as the stay does not exceed six months.

[OAR Docket #08-1381; filed 11-18-08]

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

[OAR Docket #08-1372]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Procedures for Registration
710:22-5-10 [NEW]

AUTHORITY:

68 O.S. §§ 203, 63 O.S. § 4004; Oklahoma Tax Commission

DATES:

Adoption:

October 9, 2008 (Commission Order No. 2008-10-09-02)

Approved by Governor:

November 12, 2008

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproval by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Compelling public interest was found to warrant emergency promulgation of this rule to provide guidelines to federally recognized Indian tribes and Tax Commission regarding tribal vessel registration authorized by the 51st Legislature, 2nd Regular Session, and effective on November 1, 2008.

ANALYSIS:

This rule delineates in detail the process for federally recognized Indian tribes to register tribal vessels with the Oklahoma Tax Commission pursuant to the Oklahoma Vessel and Motor Registration Act.

CONTACT PERSON:

Lisa Haws, OBA #12695, Tax Policy Analyst; (405) 521-3133

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR, AS SET FORTH IN 75 O.S. SECTION 253(D):

SUBCHAPTER 5. PROCEDURES FOR REGISTRATION

710:22-5-10. Tribal vessel registration information integration

- (a) **Information integration process.** Federally recognized Indian tribes registering vessels in this state may provide specific ownership and registration information to the Oklahoma Tax Commission, under parameters established by the Commission. Upon receipt of such properly configured tribal vessel information, the Commission will incorporate it into the general vessel registration database.
- (b) **Registration numbers provided to tribe.** To facilitate the reporting of tribal vessel information to the Commission, the Commission shall provide to the tribe a series of vessel registration numbers, to be distributed by the tribe to its vessel registrants. The vessel registration numbers will be assigned to the tribe following receipt by the Commission of the tribe's written request to participate in the vessel registration information reporting program.
- (c) **Information required from tribe.** The extent of ownership and registration information provided for each vessel is to be in accordance with regulatory requirements of the United States Coast Guard and is to include:
 - (1) Name and complete address of vessel owner;
 - (2) Hull Identification Number (HIN) of vessel;
 - (3) Vessel Registration Number assigned to the vessel by the tribe;
 - (4) Year, make and model of vessel;
 - (5) Horsepower of motor, when applicable (i.e. inboard or inboard/outboard);
 - (6) Length of vessel, expressed in feet and inches;
 - (7) Use, type, hull material, propulsion type and fuel type, provided pursuant to accepted United States Coast Guard terminology and utilizing the Oklahoma Tax Commission's corresponding number coding system;
 - (8) Registration expiration, expressed as mmccyy (example: June 2009 = 062009);
 - (9) Date of tribal transaction corresponding to the information provided; and
 - (10) Tribal name.
- (d) **Information format.** The required vessel information is to be provided to the Commission by the tribe in an electronic format outlined by the Commission. The electronic format

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requirements shall be made available by the Commission in printed form and provided to any requestor. In general, and subject to modification as system processes change, the vessel information is to be configured as follows:

- (1) File Transfer Protocol (FTP) transmission format; and
 - (2) Flat file; text format; fixed block records.
- (e) **Information reporting schedule.** Within ninety (90) days of being provided vessel registration numbers by the Commission, the tribe will provide to the Commission an electronic copy of the tribe's complete current vessel registration file. Thereafter, updates to the file are to be provided to the Commission by the tribe at least every thirty (30) days. At the option of the tribe, the file updates may contain either the entire vessel file, intended to completely replace all earlier information submitted by the tribe, or contain only vessel records that have been changed/updated since submission of the previous file.

(f) **Records correction.** It shall be the responsibility of the tribe to immediately provide to the Commission corrections to any inaccurate vessel information previously submitted to the Commission.

(g) **File records retention.** The Commission will retain individual tribal vessel registration information in the database until the registration for any vessel reflects a delinquent expiration of at least six (6) months.

(h) **Failure to properly report.** It shall be the responsibility of the tribe to report vessel information under the conditions outlined above. Should a tribe fail to comply with the information reporting guidelines outlined above, the Commission may, at its discretion, delete the tribe's vessel information from the Commission computer file and/or deny requests of the tribe for additional vessel registration numbers.

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