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Peggy Coe, Managing Editor

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Continued Hearings/Comment Periods

If an agency continues a hearing or comment period announced in a published Notice of Rulemaking Intent, the agency may submit a notice of such continuation to the Office of Administrative Rules (OAR). The OAR publishes the continuation notice in the *Register* if such publication can be achieved at least five days prior to the announced date of the continued hearing or closing date of the continued comment period.

For additional information on continued hearings and comment periods, see OAC 655:10-7-28.

TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 3. PROCEDURE

[OAR Docket #09-322]

RULEMAKING ACTION:

Continued comment period and public hearing relating to a proposed PERMANENT rulemaking action

PROPOSED RULES:

160:3-1-1.1 [AMENDED]

REGISTER PUBLICATION OF NOTICE:

The Notice of Rulemaking Intent for this action was published at 26 Ok Reg 445.

CONTINUED COMMENT PERIOD:

Original comment period:

February 2, 2009 to March 4, 2009

Continued to:

March 27, 2009

CONTINUED PUBLIC HEARING:

Original public hearing:

1:00 p.m., Wednesday, March 4, 2009, Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105

Continued to:

2:30 p.m., Friday, March 27, 2009, Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by the proposed rule 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 rule. Business entities may submit this information in writing by the conclusion of the comment period and public hearing on March 27, 2009 at the Department of Consumer Credit at the above address.

COPIES OF PROPOSED RULES:

Interested persons may inspect the proposed rules at the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105. Copies of the proposed rules may be obtained at a cost of $0.25 per page copying charge from the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105, or they may be printed from the Department's web page at www.ok.gov/okdocc.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement was prepared and is available at the same locations listed above for reviewing and obtaining copies of the proposed rules.

ADDITIONAL INFORMATION:

For additional information, contact Roy John Martin, Legal Counsel, Department of Consumer Credit, 4545 N. Lincoln Boulevard, Suite 164, Oklahoma City, OK 73105, 405-521-3653.

[OAR Docket #09-322; filed 3-10-09]

TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 45. TRUTH IN LENDING RULES

[OAR Docket #09-323]

RULEMAKING ACTION:

Continued comment period and public hearing relating to a proposed PERMANENT rulemaking action

PROPOSED RULES:

Subchapter 1. General Provisions
160:45-1-1 [AMENDED]
160:45-1-2 [AMENDED]
Subchapter 3. Open-End Credit
160:45-3-14 [AMENDED]
Subchapter 5. Closed-End Credit
160:45-5-1 [AMENDED]
160:45-5-3 [AMENDED]
160:45-5-7 [AMENDED]
160:45-5-8 [AMENDED]
Subchapter 9. Special Rules for Certain Home Mortgage Transactions
160:45-9-2 [AMENDED]
160:45-9-4 [AMENDED]
160:45-9-5 [NEW]
160:45-9-6 [NEW]

REGISTER PUBLICATION OF NOTICE:

The Notice of Rulemaking Intent for this action was published at 26 Ok Reg 446.

CONTINUED COMMENT PERIOD:

Original comment period:

February 2, 2009 to March 4, 2009

Continued to:

March 27, 2009

CONTINUED PUBLIC HEARING:

Original public hearing:

1:00 p.m., Wednesday, March 4, 2009, Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105

Continued to:

2:30 p.m., Friday, March 27, 2009, Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by the proposed rule 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 rule. Business entities may submit this information in writing by the conclusion of the comment period and public hearing on March 27, 2009 at the Department of Consumer Credit at the above address.

COPIES OF PROPOSED RULES:

Interested persons may inspect the proposed rules at the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105. Copies of the proposed rules may be obtained at a cost of $0.25 per page copying charge from the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105, or they may be printed from the Department's web page at www.ok.gov/okdocc.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement was prepared and is available at the same locations listed above for reviewing and obtaining copies of the proposed rules.

ADDITIONAL INFORMATION:

For additional information, contact Roy John Martin, Legal Counsel, Department of Consumer Credit, 4545 N. Lincoln Boulevard, Suite 164, Oklahoma City, OK 73105, 405-521-3653.

[OAR Docket #09-323; filed 3-10-09]

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

[OAR Docket #09-324]

RULEMAKING ACTION:

Continued comment period and public hearing relating to a proposed PERMANENT rulemaking action

PROPOSED RULES:

Subchapter 3. Licensing

160:55-3-1.2 [AMENDED]

160:55-3-1.4 [AMENDED]

Subchapter 9. Enforcement

160:55-9-10 [NEW]

REGISTER PUBLICATION OF NOTICE:

The Notice of Rulemaking Intent for this action was published at 26 Ok Reg 446.

CONTINUED COMMENT PERIOD:

Original comment period:

February 2, 2009 to March 4, 2009

Continued to:

March 27, 2009

CONTINUED PUBLIC HEARING:

Original public hearing:

1:00 p.m., Wednesday, March 4, 2009, Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105

Continued to:

2:30 p.m., Friday, March 27, 2009, Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by the proposed rule 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 rule. Business entities may submit this information in writing by the conclusion of the comment period and public hearing on March 27, 2009 at the Department of Consumer Credit at the above address.

COPIES OF PROPOSED RULES:

Interested persons may inspect the proposed rules at the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105. Copies of the proposed rules may be obtained at a cost of $0.25 per page copying charge from the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105, or they may be printed from the Department's web page at www.ok.gov/okdocc.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement was prepared and is available at the same locations listed above for reviewing and obtaining copies of the proposed rules.

ADDITIONAL INFORMATION:

For additional information, contact Roy John Martin, Legal Counsel, Department of Consumer Credit, 4545 N. Lincoln Boulevard, Suite 164, Oklahoma City, OK 73105, 405-521-3653.

[OAR Docket #09-324; filed 3-10-09]

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 5. OKLAHOMA ABSTRACTORS BOARD
CHAPTER 2. ADMINISTRATIVE OPERATIONS

[OAR Docket #09-386]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
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5:2-1-1 through 5:2-1-4 [NEW]
Subchapter 3. Administrative Operations [NEW]
5:2-3-1 through 5:2-3-7 [NEW]
SUBMITTED TO GOVERNOR:
March 18, 2009
SUBMITTED TO HOUSE:
March 18, 2009
SUBMITTED TO SENATE:
March 18, 2009

[OAR Docket #09-386; filed 3-18-09]

TITLE 5. OKLAHOMA ABSTRACTORS BOARD
CHAPTER 11. ADMINISTRATION OF ABSTRACTORS ACT

[OAR Docket #09-388]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
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5:11-11-1 [NEW]
SUBMITTED TO GOVERNOR:
March 18, 2009
SUBMITTED TO HOUSE:
March 18, 2009
SUBMITTED TO SENATE:
March 18, 2009

[OAR Docket #09-388; filed 3-18-09]

TITLE 5. OKLAHOMA ABSTRACTORS BOARD
CHAPTER 21. COMPLAINTS AND ENFORCEMENT

[OAR Docket #09-387]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions [NEW]
5:21-1-1 through 5:21-1-5 [NEW]
Subchapter 3. Complaint Investigation Procedures [NEW]
5:21-3-1 through 5:21-3-2 [NEW]
Subchapter 5. Formal Complaint Procedures [NEW]
5:21-5-1 through 5:21-5-9 [NEW]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-387; filed 3-18-09]

TITLE 25. OKLAHOMA AERONAUTICS COMMISSION
CHAPTER 25. AVIATION EDUCATION PROGRAM

[OAR Docket #09-383]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
25:25-1-1 [NEW]
25:25-1-2 [NEW]
25:25-1-3 [NEW]
25:25-1-4 [NEW]

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[OAR Docket #09-383; filed 3-17-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 13. FUEL ALCOHOL

[OAR Docket #09-344]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
35:13-1-1 [AMENDED]
35:13-1-2 [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-344; filed 3-11-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 15. ANIMAL INDUSTRY

[OAR Docket #09-345]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Biological Products and Laboratories
35:15-5-1 [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-345; filed 3-11-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 15. ANIMAL INDUSTRY

[OAR Docket #09-346]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 16. Contagious Equine Metritis
35:15-16-1 [AMENDED]
Subchapter 36. Scrapie
35:15-36-1 [AMENDED]
35:15-36-2 [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-346; filed 3-11-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 15. ANIMAL INDUSTRY

[OAR Docket #09-347]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 49. Miscellaneous Animal Diseases [NEW]
Part 1. Malignant Catarrhal Fever [NEW]
35:15-49-1 through 35:15-49-5 [NEW]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-347; filed 3-11-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. CONSUMER PROTECTION

[OAR Docket #09-348]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 17. Combined Pesticide
Part 6. Pesticidal Product Producing Establishments

35:30-17-13 [AMENDED]
Part 21. Standards for Disposal of Pesticide and Pesticide Containers
35:30-17-89.1 [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-348; filed 3-11-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. CONSUMER PROTECTION

[OAR Docket #09-349]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 17. Combined Pesticide
Part 21. Standards for disposal of pesticide and pesticide containers
35:30-17-92 [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-349; filed 3-11-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 37. FOOD SAFETY

[OAR Docket #09-350]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Meat Inspection
Part 1. General Provisions
35:37-3-1 [AMENDED]
35:37-3-3 [AMENDED]
Subchapter 5. Poultry Products Inspection
Part 1. General Provisions
35:37-5-1 [AMENDED]
35:37-5-2 [AMENDED]
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[OAR Docket #09-350; filed 3-11-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 44. AGRICULTURE POLLUTANT DISCHARGE ELIMINATION SYSTEM

[OAR Docket #09-351]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Concentrated Animal Feeding Operations
35:44-3-3 [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-351; filed 3-11-09]

TITLE 38. OKLAHOMA BOARD OF LICENSED ALCOHOL AND DRUG COUNSELORS CHAPTER 1. ADMINISTRATION

[OAR Docket #09-497]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Individual Proceedings
38:1-1-3 [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-497; filed 3-26-09]

TITLE 38. OKLAHOMA BOARD OF LICENSED ALCOHOL AND DRUG COUNSELORS
CHAPTER 10. LICENSURE AND CERTIFICATION OF ALCOHOL AND DRUG COUNSELORS

[OAR Docket #09-498]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Rules of Professional Conduct
38:10-3-2 [AMENDED]
38:10-3-7 [NEW]
Subchapter 7. Application
38:10-7-10 [NEW]
Subchapter 9. Supervision
38:10-9-2 [AMENDED]
38:10-9-4 [AMENDED]
38:10-9-5 [NEW]
Subchapter 11. Fees
38:10-11-1 [AMENDED]
38:10-11-2 [AMENDED]
Appendix A. Licensed/Certified Counselor Code of Ethics [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-498; filed 3-26-09]

TITLE 165. CORPORATION COMMISSION
CHAPTER 10. OIL & GAS CONSERVATION

[OAR Docket #09-398]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Administration
Part 1. General Provisions
165:10-1-6. Duties and authority of the Conservation Division [AMENDED]
165:10-1-7. Prescribed forms [AMENDED]
Part 9. Purchasers and Transporters
165:10-1-49. Filing of nominations [AMENDED]
Subchapter 3. Drilling, Developing, and Producing
Part 1. Drilling
165:10-3-2. Notification of spudding of a new well [AMENDED]
165:10-3-4. Casing, cementing, wellhead equipment, and cementing reports [AMENDED]
Part 3. Completions
165:10-3-17. Well site and surface facilities [AMENDED]
Part 5. Operations
165:10-3-29. Oil storage [AMENDED]
Subchapter 5. Underground Injection Control
165:10-5-2. Approval of enhanced recovery injection wells or disposal wells
165-10-5-5. Application for approval of enhanced recovery injection and disposal operations [AMENDED]
165:10-5-7. Monitoring and reporting requirements for wells covered by 165:10-5-1 [AMENDED]
165:10-5-9. Duration of underground injection well orders <u>or permits</u> [AMENDED]
Subchapter 7. Pollution Abatement
Part 1. General Provisions
165:10-7-2. Administration and enforcement of rules [AMENDED]
165:10-7-4. Water quality standards [AMENDED]
Part 3. Storage and Disposal of Fluids
165:10-7-26. One-time land application of contaminated soils and petroleum hydrocarbon based drill cuttings [AMENDED]
Subchapter 11. Plugging and Abandonment
165:10-11-9. Temporary exemption from plugging requirements [AMENDED]
Subchapter 13. Determination of Allowables - Oil and Gas Wells
165:10-13-3. Production tests on new, re-entered, and recompleted wells [AMENDED]
Subchapter 15. Oil Well Production and Allowables
165:10-15-3. Effect of percentage penalty on oil wells [AMENDED]
165:10-15-5. Discovery oil allowables [AMENDED]
165:10-15-6. Production tests and reports for discovery oil pools [AMENDED]
165:10-15-13. Production tests and reports for unallocated oil wells [AMENDED]
Subchapter 17. Gas Well Operations and Permitted Production
165:10-17-9. Special allocated gas pools
Subchapter 21. Applications for Tax Exemptions
Part 8. Deep Wells
165:10-21-45. General [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-398; filed 3-20-09]

TITLE 165. CORPORATION COMMISSION
CHAPTER 30. MOTOR CARRIERS

[OAR Docket #09-358]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Intrastate Motor Carriers
Part 1. Applying For A License
165:30-3-1. Obtaining a license [AMENDED]
Part 3. License Requirements
165:30-3-11. Insurance [AMENDED]
165:30-3-16. Current address requirement [AMENDED]
Part 9. Violations
165:30-3-71. Loading capacity - Safety compliance [AMENDED]
165:30-3-76. Contempt complaint [AMENDED]
Subchapter 7. Procedural Rules
165:30-7-12. Revocation, suspension or denial of issuance of motor carrier license, permit, certificate or registration [NEW]
165:30-7-13. Disqualification procedure [NEW]
Subchapter 19. Registration Pursuant to the International Registration Plan
165:30-19-12. Supplemental application [AMENDED]
165:30-19-17. Temporary registration [AMENDED]
Subchapter 21. International Fuel Tax Agreement
165:30-21-7. Application processing [AMENDED]
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[OAR Docket #09-358; filed 3-13-09]

TITLE 165. CORPORATION COMMISSION
CHAPTER 45. GAS SERVICE UTILITIES

[OAR Docket #09-397]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions [AMENDED]
165:45-1-2. Definitions [AMENDED]
Subchapter 23. Demand Programs [NEW]
165:45-23-1. Purpose [NEW]
165:45-23-2. Goals [NEW]
165:45-23-3. Definitions [NEW]
165:45-23-4. Demand portfolio submission and implementation [NEW]
165:45-23-5. Commission consideration [NEW]
165:45-23-6. Evaluation, measurement, and verification [NEW]
165:45-23-7. Reporting [NEW]
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[OAR Docket #09-397; filed 3-20-09]

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

[OAR Docket #09-433]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 9. Lifelong Learning
210:10-9-1. General provisions [AMENDED]
210:10-9-2. Adult basic education [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-433; filed 3-23-09]

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

[OAR Docket #09-434]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
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]
210:10-13-11. Testing students with disabilities [AMENDED]
210:10-13-18. Oklahoma School Accountability System [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-434; filed 3-23-09]

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

[OAR Docket #09-435]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Priority Academic Student Skills
Part 11. Social Studies
210:15-3-102. United States History 1850 to the present for high school [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-435; filed 3-23-09]

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

[OAR Docket #09-436]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
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]
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]
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[OAR Docket #09-436; filed 3-23-09]

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

[OAR Docket #09-437]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
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]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-437; filed 3-23-09]

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

[OAR Docket #09-438]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 33. Celebrate Freedom Week
210:15-33-2. Celebrate Freedom Week requirements [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-438; filed 3-23-09]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #09-439]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 9. Professional Standards: Teacher Education and Certification
Part 9. Teacher Certification
210:20-9-99.1. National certification bonus for school psychologists, speech-language pathologists, and audiologists [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-439; filed 3-23-09]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #09-440]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 9. Professional Standards: Teacher Education and Certification
Part 9. Teacher Certification
210:20-9-102. Career development program for paraprofessionals [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-440; filed 3-23-09]

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

[OAR Docket #09-441]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Transportation
210:30-5-1. District operation and management [AMENDED]
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[OAR Docket #09-441; filed 3-23-09]

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

[OAR Docket #09-442]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
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]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-442; filed 3-23-09]

TITLE 235. OKLAHOMA FUNERAL BOARD
CHAPTER 1. ADMINISTRATIVE OPERATIIONS

[OAR Docket #09-394]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review

RULES:
235:1-1-2 [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-394; filed 3-20-09]

TITLE 235. OKLAHOMA FUNERAL BOARD CHAPTER 10. FUNERAL SERVICES LICENSING

[OAR Docket #09-395]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 1. General Provisions
235:10-1-2 [AMENDED]
Subchapter 3. Qualification and ~~Requirements~~ Requirements for Licensure
235:10-3-1 [AMENDED]
235:10-3-2 [AMENDED]
235:10-3-5 [AMENDED]
Subchapter 5. Licensing fees
235:10-5-1 [AMENDED]
Subchapter 7. Licensure Renewal, Revocation, and Suspension
235:10-7-2 [AMENDED]
Subchapter 11. Minimum Standards of Performance
235:10-11-1 [AMENDED]
Subchapter 13. Continuing Education
235:10-13-10 [AMENDED]
Subchapter 14. Crematories [NEW]
235:10-14-1 [NEW]
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[OAR Docket #09-395; filed 3-20-09]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 4. RULES OF PRACTICE AND PROCEDURE

[OAR Docket #09-325]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 9. Administrative Proceedings
Part 3. Individual Proceedings
252:4-9-32. Individual proceedings filed by others [AMENDED]
SUBMITTED TO GOVERNOR:
March 9, 2009
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[OAR Docket #09-325; filed 3-10-09]

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

[OAR Docket #09-326]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
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]
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[OAR Docket #09-326; filed 3-10-09]

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

[OAR Docket #09-327]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
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]
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[OAR Docket #09-327; filed 3-10-09]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 606. OKLAHOMA POLLUTANT DISCHARGE ELIMINATION SYSTEM (OPDES) STANDARDS

[OAR Docket #09-328]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Introduction
252:606-1-2. Definitions [AMENDED]
252:606-1-4. Date of federal regulations incorporated [AMENDED]
Subchapter 7. Biosolids Permit Requirements [REVOKED]
252:606-7-1. Permit required [REVOKED]
252:606-7-2. Permit applications [REVOKED]
252:606-7-3. Certification required [REVOKED]
252:606-7-4. Sludge (biosolids) management plan [REVOKED]
252:606-7-5. Permit modifications [REVOKED]
252:606-7-6. Restrictions applicable to all land application [REVOKED]
252:606-7-7. Laboratory analyses [REVOKED]
252:606-7-8. Compliance required [REVOKED]
252:606-7-9. Monitoring wells [REVOKED]
Subchapter 8. Biosolids Requirements [NEW]
252:606-8-1. Permits and prohibitions [NEW]
252:606-8-2. Permit applications [NEW]
252:606-8-3. Sludge (biosolids) management plan [NEW]
252:606-8-4. Class A biosolid production [NEW]
252:606-8-5. Class B biosolid production [NEW]
252:606-8-6. Land application of biosolids [NEW]
Subchapter 9. Land Application of Biosolids [REVOKED]
252:606-9-1. Prohibitions [REVOKED]
252:606-9-2. Land application exceptions and alternatives [REVOKED]
252:606-9-3. Site use for land application [REVOKED]
252:606-9-4. pH and nutrient limits [REVOKED]
252:606-9-5. Soil sampling [REVOKED]
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[OAR Docket #09-328; filed 3-10-09]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 616. INDUSTRIAL WASTEWATER SYSTEMS

[OAR Docket #09-329]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Introduction
252:616-1-2. Definitions [AMENDED]
Subchapter 3. Permit Procedures
252:616-3-4. Applications [AMENDED]
Subchapter 13. Closure Standards
252:616-13-1. Termination of activities [AMENDED]
Appendix A. Application for Permit to Discharge and/or Treat Industrial Wastewater of Sludge General Information [REVOKED]
Appendix B. Application for Permit to Discharge and/or Treat Industrial Wastewater or Sludge Surface Impoundments and Septic Tanks [REVOKED]
Appendix C. Application for Permit to Land Apply Industrial Wastewater and/or Sludge [REVOKED]
Appendix C. Table of Rainfall and Evaporation Data [NEW]
Appendix D. Class III Surface Impoundment Design [REVOKED]
Appendix D. Class III Surface Impoundment Design [NEW]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-329; filed 3-10-09]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 623. PRETREATMENT FOR CENTRAL TREATMENT TRUSTS

[OAR Docket #09-330]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
252:623-1-7. Incorporation by reference [AMENDED]
SUBMITTED TO GOVERNOR:
March 9, 2009
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[OAR Docket #09-330; filed 3-10-09]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 631. PUBLIC WATER SUPPLY OPERATION

[OAR Docket #09-331]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Introduction
252:631-1-3. Adoption of U.S. EPA regulations by reference [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-331; filed 3-10-09]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 641. INDIVIDUAL AND SMALL PUBLIC ON-SITE SEWAGE TREATMENT SYSTEMS

[OAR Docket #09-332]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Appendix H. Size Charts for On-Site Sewage Treatment Systems [REVOKED]
Appendix H. Size Charts for On-Site Sewage Treatment Systems [NEW]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-332; filed 3-10-09]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 690. WATER QUALITY STANDARDS IMPLEMENTATION

[OAR Docket #09-333]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Introduction
252:690-1-1. Purpose and applicability [AMENDED]
252:690-1-2. Definitions [AMENDED]
252:690-1-4. Incorporation of USEPA regulations by reference [AMENDED]
Subchapter 3. Point Source Discharges
252:690-3-19. TREs, TIEs and WET limits [AMENDED]
252:690-3-27. Intermittent lethality ~~or persistent sublethality~~ [AMENDED]
252:690-3-31. WET test requirements [AMENDED]
252:690-3-34. Test duration for WET tests [AMENDED]
252:690-3-37. ~~Dilution~~ WET test dilution water for discharges to perennial streams and lakes [AMENDED]
252:690-3-39. Endpoint and test failure criteria for acute tests [AMENDED]
252:690-3-40. Endpoint and test failure criteria for chronic tests [AMENDED]
252:690-3-42. WET testing frequency reductions after WET testing trial period [AMENDED]
252:690-3-75. Wasteload allocations for implementation of human health and raw water criteria for toxic substances to protect the Public and Private Water Supply beneficial use [AMENDED]
252:690-3-93. Monitoring for a nutrient limited watershed [NEW]
Appendix A. Water Quality Standards Implementation Plan Department of Environmental Quality [REVOKED]
Appendix A. Water Quality Standards Implementation Plan Department of Environmental Quality [NEW]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-333; filed 3-10-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 9. HEALTH CARE INFORMATION

[OAR Docket #09-406]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. Required Information
310:9-3-1 [AMENDED]
Subchapter 5. Collection and Release of Information
310:9-5-2.1 [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-406; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 205. ALARM AND LOCKSMITH INDUSTRY

[OAR Docket #09-407]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. License Requirements
310:205-3-5 [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-407; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 315. PUBLIC BATHING PLACE FACILITY STANDARDS

[OAR Docket #09-408]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
310:315-1-1 [AMENDED]
310:315-1-2 [AMENDED]
310:315-1-3 [NEW]
Subchapter 3. Plan Documents
310:315-3-1 [AMENDED]
Subchapter 7. Construction and Operation
310:315-7-2 [AMENDED]
310:315-7-6 [AMENDED]
310:315-7-9 [AMENDED]
310:315-7-10 [AMENDED]
310:315-7-11 [AMENDED]
310:315-7-12 [AMENDED]
310:315-7-14 [AMENDED]
310:315-7-15 [AMENDED]
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[OAR Docket #09-408; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 345. REGISTRATION OF SANITARIANS AND ENVIRONMENTAL SPECIALISTS

[OAR Docket #09-409]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. Applications
310:345-3-1 [AMENDED]
Subchapter 7. Revocation and Reinstatement
310:345-7-2 [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-409; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 400. LICENSED MARITAL AND FAMILY THERAPISTS

[OAR Docket #09-410]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
310:400-1-3 [AMENDED]
Subchapter 5. Rules of Professional Conduct
310:400-5-3 [AMENDED]
Subchapter 7. Application for Licensure
310:400-7-2 [AMENDED]
310:400-7-2.1 [AMENDED]
Subchapter 9. Licensure Examinations
310:400-9-4 [AMENDED]
310:400-9-7 [REVOKED]
Subchapter 11. Supervised Experience Requirements
310:400-11-3 [AMENDED]
310:400-11-4 [AMENDED]
310:400-11-5 [AMENDED]
Subchapter 13. Fees
310:400-13-2 [AMENDED]
Subchapter 15. Issuance and Maintenance of License
310:400-15-3 [AMENDED]
310:400-15-4 [AMENDED]
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[OAR Docket #09-410; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 403. LICENSED BEHAVIORAL PRACTITIONERS

[OAR Docket #09-411]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
310:403-1-2 [AMENDED]
Subchapter 7. Rules of Professional Conduct
310:403-7-2 [AMENDED]
310:403-7-3 [AMENDED]
Subchapter 15. Supervised Experience Requirements
310:403-15-7 [AMENDED]
Subchapter 21. Continuing Education Requirements
310:403-21-1.1 [NEW]
310:403-21-3 [AMENDED]
Subchapter 25. License and Specialty Renewal
310:403-25-8 [AMENDED]
Subchapter 27. Licensure by Endorsement
310:403-27-1 [AMENDED]
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[OAR Docket #09-411; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 405. LICENSED PROFESSIONAL COUNSELORS

[OAR Docket #09-412]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
310:405-1-2.1 [AMENDED]
Subchapter 3. Rules of Professional Conduct
310:405-3-2 [AMENDED]
310:405-3-3 [AMENDED]
310:405-3-6 [AMENDED]
Subchapter 7. Application Procedures
310:405-7-8.1 [NEW]
Subchapter 11. Supervised Experience Requirement
310:405-11-2 [AMENDED]
310:405-11-4 [AMENDED]
Subchapter 13. Fees
310:405-13-2 [AMENDED]
Subchapter 15. Licensure Examinations
310:405-15-2 [AMENDED]
Subchapter 17. Continuing Education Requirements
310:405-17-2 [AMENDED]
310:405-17-3 [AMENDED]
310:405-17-4.1[AMENDED]
Subchapter 21. License and Specialty Renewal
310:405-21-6 [AMENDED]
Subchapter 27. Licensure by Endorsement
310:405-27-3 [AMENDED]

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[OAR Docket #09-412; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 515. COMMUNICABLE DISEASE AND INJURY REPORTING

[OAR Docket #09-413]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. Disease and Injury Reporting Requirements
310:515-1-1.1 [AMENDED]
310:515-1-3 [AMENDED]
310:515-1-4 [AMENDED]
310:515-1-7 [AMENDED]
310:515-1-8 [AMENDED]
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[OAR Docket #09-413; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 525. DIRECT SERVICES TO INDIVIDUALS

[OAR Docket #09-414]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 5. Disease and Prevention Services [NEW]
310:525-5-1. Purpose [NEW]
310:525-5-2. Fees [NEW]
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[OAR Docket #09-414; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 531. VISION SCREENING

[OAR Docket #09-415]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
310:531-1-1 [AMENDED]
310:531-1-3 [AMENDED]
Subchapter 3. Advisory Committee
310:531-3-1 [AMENDED]
Subchapter 5. Vision Screening Standards for Children
310:531-5-1 [AMENDED]
310:531-5-2 [AMENDED]
310:531-5-3 [AMENDED]
310:531-5-4 [NEW]
310:531-5-5 [NEW]
Subchapter 7. Registry Enforcement for Vision Screening Providers [NEW]
310:531-7-1 [NEW]
310:531-7-2 [NEW]
310:531-7-3 [NEW]
310:531-7-4 [NEW]
310:531-7-5 [NEW]
310:531-7-6 [NEW]
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[OAR Docket #09-415; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 535. IMMUNIZATIONS

[OAR Docket #09-416]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. Adult Immunizations
310:535-3-2 [AMENDED]
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[OAR Docket #09-416; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 546. FEE SCHEDULE FOR PUBLIC HEALTH LABORATORY SERVICE

[OAR Docket #09-417]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
310:546-1-2 [AMENDED]
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[OAR Docket #09-417; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 551. ADVANCEMENT IN STEM CELL CURES AND THERAPIES ACT

[OAR Docket #09-418]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions [NEW]
310:551-1-1 [NEW]
310:551-1-2 [NEW]
Subchapter 2. Research on Human Tissue Regeneration and Human Diseases [NEW]
310.551-2-1 [NEW]
Subchapter 3. Reporting of Stem Cell Research [NEW]
310:551-3-1 [NEW]
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[OAR Docket #09-418; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 661. HOSPICE

[OAR Docket #09-419]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
310:661-1-2 [AMENDED]
Subchapter 2. Licenses
310:661-2-1 [AMENDED]
310:661-2-4 [AMENDED]
Subchapter 3. Administration
310:661-3-2 [AMENDED]
310:661-3-3.1 [NEW]
Subchapter 5. Minimum Standards
310:661-5-1.1 [NEW]
310:661-5-1.2 [NEW]
310:661-5-1.3 [NEW]
310:661-5-2 [AMENDED]
310:661-5-2.1 [NEW]
310:661-5-2.2 [NEW]
310:661-5-2.3 [NEW]
310:661-5-2.4 [NEW]
310:661-5-3.1 [NEW]
310:661-5-4.1 [NEW]
310:661-5-6 [NEW]
310:661-5-7 [NEW]
310:661-5-8 [NEW]
310:661-5-9 [NEW]
Subchapter 6. Hospice Inpatient Service Requirements
310:661-6-7 [AMENDED]
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[OAR Docket #09-419; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 667. HOSPITAL STANDARDS

[OAR Docket #09-420]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 5. Compliance with Federal, State, and Local Laws
310:667-5-4 [AMENDED]

Subchapter 59. Classification of Hospital Emergency Services
310:667-59-1 [AMENDED]
310:667-59-3 [AMENDED]
310:667-59-5 [AMENDED]
310:667-59-20 [NEW]
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[OAR Docket #09-420; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 675. NURSING AND SPECIALIZED FACILITIES

[OAR Docket #09-421]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. Licenses
310:675-3-1.1 [AMENDED]
310:675-3-5 [AMENDED]
310:675-3-5.1 [AMENDED]
310:675-3-8 [AMENDED]
Subchapter 7. Administration
310:675-7-4 [AMENDED]
310:675-7-12.1 [AMENDED]
310:675-7-20 [AMENDED]
Subchapter 11. Intermediate Care Facilities for the Mentally Retarded (16 beds and less (ICF/MR-16)
310:675-11-1 [AMENDED]
310:675-11-5 [AMENDED]
310:675-11-8 [AMENDED]
310:675-11-9 [AMENDED]
Subchapter 13. Staff Requirements
310:675-13-8 [AMENDED]
310:675-13-9 [AMENDED]
Subchapter 19. Feeding Assistants
310:675-19-6 [AMENDED]
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[OAR Docket #09-421; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 677. NURSE AIDE TRAINING AND CERTIFICATION

[OAR Docket #09-422]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
310:677-1-3 [AMENDED]
310:677-1-6 [AMENDED]
Subchapter 3. Nurse Aide Training and Competency Examination Program
310:677-3-2 [AMENDED]
Subchapter 5. Nurse Aide Registry
310:677-5-2 [AMENDED]
Subchapter 7. Hearings
310:677-7-5 [NEW]
Subchapter 11. Long Term Care Aides
310:677-11-4 [AMENDED]
Subchapter 13. Certified Medication Aides
310:677-13-8 [AMENDED]
310:677-13-12 [AMENDED]
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TITLE 330. OKLAHOMA HOUSING FINANCE AGENCY CHAPTER 36. AFFORDABLE HOUSING TAX CREDIT PROGRAM

[OAR Docket #09-389]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
330:36-1-4. [AMENDED]
Subchaper 2. Allocation Procedures
330:36-2-9. [AMENDED]
330:36-2-12. [AMENDED]
330:36-2-17. [AMENDED]
Subchapter 4. Development Applications and Selection
330:36-4-2. [AMENDED]
330:36-4-2.1 [AMENDED]
330:36-4-3. [AMENDED]
Subchapter 6. Program Administration
330:36-6-7 [AMENDED]

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[OAR Docket #09-389; filed 3-18-09]

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

[OAR Docket #09-483]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 1. Human Resources Management Division (HRMD)
Part 7. Recruitment, Selection, and Placement
340:2-1-83 [AMENDED]
(Reference APA WF 09-05)
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[OAR Docket #09-483; filed 3-25-09]

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

[OAR Docket #09-484]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 3. Office of Client Advocacy
Part 1. Administration
340:2-3-1 through 340:2-3-2 [AMENDED]
Part 5. Grievances
340:2-3-45 through 340:2-3-48 [AMENDED]
340:2-3-50 through 340:2-3-51 [AMENDED]
340:2-3-54 [AMENDED]
Part 7. Grievance and Abuse Review Committee
340:2-3-64 [AMENDED]
Part 9. ~~Ombudsman~~ Advocacy Programs
340:2-3-71 through 340:2-3-75 [AMENDED]
(Reference APA WF 09-03)
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[OAR Docket #09-484; filed 3-25-09]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 10. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

[OAR Docket #09-485]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 2. Temporary Assistance For Needy Families (TANF) Work Program
340:10-2-8 [AMENDED]
(Reference APA WF 09-01)
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[OAR Docket #09-485; filed 3-25-09]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 105. AGING SERVICES DIVISION

[OAR Docket #09-511]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 10. Policies and Procedures Manual for Title III of the Older Americans Act of 1965, as Amended
Part 1. Introduction
340:105-10-3 [AMENDED]
Part 3. State Agency
340:105-10-12 through 105-10-13 [AMENDED]
Part 5. Area Agencies on Aging
340:105-10-32 [AMENDED]
340:105-10-36 through 105-10-38 [AMENDED]
340:105-10-40 [AMENDED]
Part 7. Program Standards for Services Funded Under Title III
340:105-10-50.1 [AMENDED]

340:105-10-54 [AMENDED]
340:105-10-71 [AMENDED]
340:105-10-75 [AMENDED]
340:105-10-90.1 [AMENDED]
Part 9. Fiscal and Administrative Policies for Area Agencies on Aging and Title III Projects
340:105-10-96 [AMENDED]
340:105-10-101 [AMENDED]
(Reference APA WF 08-06)
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[OAR Docket #09-511; filed 3-26-09]

TITLE 380. DEPARTMENT OF LABOR CHAPTER 20. WELDING RULES

[OAR Docket #09-371]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
380:20-1-3 [AMENDED]
380:20-1-14 [AMENDED]
380:20-1-15 [NEW]
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[OAR Docket #09-371; filed 3-16-09]

TITLE 380. DEPARTMENT OF LABOR CHAPTER 25. BOILER AND PRESSURE VESSEL RULES

[OAR Docket #09-370]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Administration
380:25-3-7 [AMENDED]
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[OAR Docket #09-370; filed 3-16-09]

TITLE 380. DEPARTMENT OF LABOR CHAPTER 70. ELEVATOR SAFETY ACT

[OAR Docket #09-393]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
380:70-1-2 [AMENDED]
Subchapter 3. Administration
380:70-3-4 [AMENDED]
Subchapter 5. Licenses
380:70-5-1 [AMENDED]
380:70-5-3 [AMENDED]
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[OAR Docket #09-393; filed 3-19-09]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 1. ADMINISTRATION

[OAR Docket #09-447]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 9. Certification and Designation of Facility Services
450:1-9-1. Applicability of certification [AMENDED]
450:1-9-5. Qualifications for certifications of facilities, programs and individuals [AMENDED]
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[OAR Docket #09-447; filed 3-24-09]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 15. CONSUMER RIGHTS

[OAR Docket #09-448]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
450:15-1-2. Definitions [AMENDED]
Subchapter 7. Office of Consumer Advocacy
Part 2. Investigations
450:15-7-6. Reporting suspected maltreatment [AMENDED]
450:15-7-9. Investigation procedures [AMENDED]
450:15-7-15. Investigative report and findings [AMENDED]
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[OAR Docket #09-448; filed 3-24-09]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 17. STANDARDS AND CRITERIA FOR COMMUNITY MENTAL HEALTH CENTERS

[OAR Docket #09-449]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provision
450:17-1-2. Definitions [AMENDED]
450:17-1-6. Services [AMENDED]
Subchapter 3. Required Services
Part 1. Required Services
450:17-3-2. Core community mental health services [AMENDED]
450:17-3-3. Availability of services [AMENDED]
Part 3. Screening, Intake, Assessment and Referral
450:17-3-21. Integrated screening, intake, and assessment services [AMENDED]
Part 5. Emergency Services
450:17-3-41. Emergency Services [AMENDED]
Part 7. Outpatient Counseling Services
450:17-3-61. Outpatient counseling services [AMENDED]
450:17-3-62. Outpatient counseling services, substance abuse, co-occurring [AMENDED]
Part 9. Medication Clinic Services
450:17-3-82. Medication clinic, medication monitoring [AMENDED]
450:17-3-84. Availability of medications in a CMHC's community living setting [AMENDED]
Part 11. Case Management
450:17-3-101. Case management services, ~~adult~~ [AMENDED]
450:17-3-101.1. Case management services, child, adolescent and family [REVOKED]
450:17-3-103. ~~Case management services for the hospitalized consumer and consumers in substance abuse treatment facilities~~ Case management services for consumers admitted to higher levels of care [AMENDED]
Part 15. Adult Recovery and Rehabilitation Programs
450:17-3-141. Psychiatric rehabilitation programs [AMENDED]
Part 21. Peer Support Services [NEW]
450:17-3-191. Peer Support Services [NEW]
450:17-3-192. Peer Recovery Support Specialists Staff Requirements [NEW]
450:17-3-193. Peer Recovery Support Services Locale and Frequency [NEW]
Part 23. Wellness Services and Related Activities [NEW]
450:17-3-201. Wellness Services and Related Activities [NEW]
Subchapter 5. Optional Services
Part 15. Inpatient Services
450:17-5-95. Inpatient services within the community mental health setting [AMENDED]
450:17-5-96. Inpatient services within the community mental health setting, service issues [REVOKED]
450:17-5-97. Inpatient services within the community mental health setting, clinical medical health issues [REVOKED]
450:17-5-98. Inpatient services within the community mental health setting, activity services [REVOKED]
450:17-5-99. Inpatient services within the community mental health setting, environment [REVOKED]
450:17-5-100. Mechanical restraints [REVOKED]
Subchapter 7. Facility Clinical Records
450:17-7-8. Integrated service plan [AMENDED]
450:17-7-9. Medication record [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-449; filed 3-24-09]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 30. STANDARDS AND CRITERIA FOR STATE-OPERATED INPATIENT SERVICES

[OAR Docket #09-450]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 15. Forensic Review Board [REVOKED]
450:30-15-1. Applicability [REVOKED]
450:30-15-2. Definitions [REVOKED]
450:30-15-3. Composition, powers and duties [REVOKED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-450; filed 3-24-09]

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

[OAR Docket #09-378]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
600:10-1-4. Examination [AMENDED]
600:10-1-6. Experience prerequisite [AMENDED]
600:10-1-16. Supervision of trainee appraisers [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-378; filed 3-16-09]

TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES
CHAPTER 3. MANAGEMENT SERVICES DIVISION

[OAR Docket #09-353]

RULEMAKING ACTION:
Submission for Gubernatorial and Legislative Review
RULES:
Subchapter 5. Policy Development and Program Standards
Part 1. General Provisions
612:3-5-1. Purpose [AMENDED]
Part 3. Policy Development
612:3-5-12. Policy Development [AMENDED]
612:3-5-13. Drafting of new or revised policy [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-353; filed 3-12-09]

TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES
CHAPTER 10. VOCATIONAL REHABILITATION AND VISUAL SERVICES

[OAR Docket #09-354]

RULEMAKING ACTION:
Submission for Gubernatorial and Legislative Review
RULES:
Subchapter 1. General Provisions
612:10-1-2. Definitions [AMENDED]
Subchapter 7. Vocational Rehabilitation and Visual Services
Part 1. Scope of Vocational Rehabilitation and Visual Services
612:10-7-4. Basic eligibility requirements for vocational rehabilitation services [AMENDED]
Part 5. Case Status and Classification System
612:10-7-50. Eligibility-accepted for services and IPE under development [AMENDED]
612:10-7-62. Post-Employment services [AMENDED]
Part 9. Actions Requiring Review and Approval
612:10-7-88. Actions requiring field coordinator's approval [AMENDED]
Part 13. Supportive Services
612:10-7-131. Transportation [AMENDED]
Part 15. Training
612:10-7-152. Payment of tuition and fees at colleges and universities [AMENDED]

Part 21. Purchase of Equipment, Occupational Licenses and Certificates
612:10-7-219. Purchase of motor vehicles [AMENDED]
612:10-7-220. ~~Purchase of special equipment for motor vehicles~~ Vehicle modification services [AMENDED]
Part 23. Self-employment Programs and Other Services
612:10-7-233. Special consideration in state government employment for persons with severe disabilities [AMENDED]

SUBMITTED TO GOVERNOR:
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[OAR Docket #09-354; filed 3-12-09]

TITLE 630. SCENIC RIVERS COMMISSION CHAPTER 3. ELECTION PROCEDURES

[OAR Docket #09-390]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 3. Election Procedures [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-390; filed 3-19-09]

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

[OAR Docket #09-391]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions and Licensing
630:10-1-4 [REVOKED]
630:10-1-5 [AMENDED]
630:10-1-7 [AMENDED]
Subchapter 2. Public Access Areas
630:10-2-2 [AMENDED]
630:10-2-4 [AMENDED]
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[OAR Docket #09-391; filed 3-19-09]

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

[OAR Docket #09-392]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
630:15-1-14 [AMENDED]
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[OAR Docket #09-392; filed 3-19-09]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #09-359]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. Public Policy
Part 3. Taxpayer Identification
710:1-3-6 [AMENDED]
Part 11. Public Records
710:1-3-73 [AMENDED]
Subchapter 5. Practice and Procedure
Part 3. Description of Administrative Review and Hearings
710:1-5-10 [AMENDED]
Part 5. Administrative Proceedings Related to Tax Protests
710:1-5-27 [AMENDED]
710:1-5-37 [AMENDED]
710:1-5-38 [AMENDED]
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[OAR Docket #09-359; filed 3-16-09]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 10. AD VALOREM

[OAR Docket #09-360]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 4. Annual Valuation Mandate
710:10-4-8 [AMENDED]
710:10-4-9 [AMENDED]
Subchapter 7. Manufacturing Facilities
710:10-7-6 [AMENDED]
Subchapter 9. Manufactured Homes
710:10-9-22 [AMENDED]
Subchapter 14. ~~Full Fair Cash Value Exemption for~~ Disabled Veterans in Receipt of Compensation at the One Hundred Percent Rate
710:10-14-1 [AMENDED]
Subchapter 15. Freeport Exemption
710:10-15-2 [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-360; filed 3-16-09]

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

[OAR Docket #09-361]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 2. Low-Point Beer
Part 1. General Provisions
710:20-2-20 [AMENDED]
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[OAR Docket #09-361; filed 3-16-09]

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

[OAR Docket #09-362]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 5. Procedures for Registration
710:22-5-10 [NEW]
Subchapter 7. Titles
710:22-7-14 [NEW]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-362; filed 3-16-09]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 45. GROSS PRODUCTION

[OAR Docket #09-363]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 9. Exemptions and Exclusions
Part 13. Deep Wells
710:45-9-60 [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-363; filed 3-16-09]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 50. INCOME

[OAR Docket #09-364]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 9. Refunds
710:50-9-8 [AMENDED]
Subchapter 15. Oklahoma Taxable Income
Part 3. Exemptions
710:50-15-34 [NEW]
Part 7. Credits against Tax
710:50-15-81 [AMENDED]
710:50-15-86 [AMENDED]
710:50-15-86.1 [AMENDED]
710:50-15-87 [AMENDED]
710:50-15-87.1 [AMENDED]
710:50-15-95 [AMENDED]
710:50-15-98 [AMENDED]
710:50-15-100 [AMENDED]
710:50-15-103 [AMENDED]
710:50-15-108 [AMENDED]
710:50-15-109 [NEW]
Subchapter 17. Oklahoma Taxable Income for Corporations
Part 5. Determination of Taxable Corporate Income
710:50-17-51 [AMENDED]
710:50-17-52 [NEW]
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[OAR Docket #09-364; filed 3-16-09]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 60. MOTOR VEHICLES

[OAR Docket #09-365]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 3. Registration and Licensing
Part 1. General Provisions
710:60-3-14 [AMENDED]
710:60-3-24 [AMENDED]
710:60-3-25 [NEW]
Part 5. Dealers
710:60-3-54 [AMENDED]
710:60-3-56 [AMENDED]
Part 7. Noncommercial Vehicles
710:60-3-70 [AMENDED]
Part 9. Commercial Vehicles
710:60-3-99 [AMENDED]
Part 11. Other Vehicles
710:60-3-111 [AMENDED]
710:60-3-115 [NEW]
Part 14. All-Terrain Vehicles, and Off-Road Motorcycles and Utility Vehicles
710:60-3-140 [AMENDED]
710:60-3-141 [AMENDED]
710:60-3-142 [AMENDED]
Subchapter 5. Motor Vehicle Titles
Part 1. General Provisions
710:60-5-2 [AMENDED]
710:60-5-6 [AMENDED]
Part 5. Certificates of Title
710:60-5-53 [AMENDED]
710:60-5-61 [NEW]
Part 7. Transfer of Title
710:60-5-73 [AMENDED]
Subchapter 7. Motor Vehicle Excise Tax
710:60-7-4 [AMENDED]
Subchapter 9. Motor Vehicle License Agents/Agencies
Part 1. General Requirements, Duties and Responsibilities of Motor License Agents
710:60-9-2 [AMENDED]
Part 5. Specific Recordkeeping Duties
710:60-9-52 [AMENDED]
Part 7. Specific Reporting Duties
710:60-9-72 [AMENDED]
Part 13. Special Provisions for Application, Qualification, Appointment, and Agency Operation Applicable to Certain Motor License Agents and Agencies
710:60-9-134 [AMENDED]
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[OAR Docket #09-365; filed 3-16-09]

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

[OAR Docket #09-366]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions

710:65-1-7 [AMENDED]
Subchapter 3. Reports and Returns; Payments and Penalties; Records
Part 1. General Provisions
710:65-3-4 [AMENDED]
Subchapter 7. Duties and Liabilities
710:65-7-13 [AMENDED]
710:65-7-15 [AMENDED]
710:65-7-20 [NEW]
Subchapter 9. Permits
710:65-9-1 [AMENDED]
Subchapter 13. Sales and Use Tax Exemptions
Part 9. Computers; Data Processing; Telecommunications
710:65-13-51 [AMENDED]
710:65-13-52 [AMENDED]
Part 29. Manufacturing
710:65-13-158 [NEW]
Part 31. Medicine, Medical Appliances, and Health Care Entities and Activities
710:65-13-170 [AMENDED]
710:65-13-173 [AMENDED]
710:65-13-177 [NEW]
Part 39. Schools and Higher Education
710:65-13-210 [AMENDED]
Part 43. Social, Charitable, and Civic Organizations and Activities
710:65-13-343 [AMENDED]
710:65-13-345 [AMENDED]
710:65-13-357 [NEW]
710:65-13-358 [NEW]
710:65-13-359 [NEW]
710:65-13-360 [NEW]
Part 65. Web Portals
710:65-13-650 [AMENDED]
Subchapter 18. Sourcing Pursuant to the Streamlined Sales and Use Tax Administration Act
710:65-18-3 [AMENDED]
Subchapter 19. Specific Application and Examples
Part 1. "A"
710:65-19-11 [AMENDED]
Part 5. "C"
710:65-19-44 [AMENDED]
710:65-19-56 [AMENDED]
Part 11. "F"
710:65-19-114 [AMENDED]

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[OAR Docket #09-366; filed 3-16-09]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 70. TOBACCO, TOBACCO PRODUCTS, AND CIGARETTES

[OAR Docket #09-367]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 2. Cigarette Stamp Tax
Part 1. General Provisions
710:70-2-11 [AMENDED]
710:70-2-12 [REVOKED]
710:70-2-13 [REVOKED]
Subchapter 5. Excise on Tobacco Products
710:70-5-12 [AMENDED]
710:70-5-13 [AMENDED]
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[OAR Docket #09-367; filed 3-16-09]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 90. WITHHOLDING

[OAR Docket #09-368]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
710:90-1-6 [AMENDED]
Subchapter 3. Returns and Payments
710:90-3-10 [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-368; filed 3-16-09]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY AND ADMINISTRATIVE AUTHORITY

[OAR Docket #09-369]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 5. Waste Tire Recycling
710:95-5-9 [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #09-369; filed 3-16-09]

TITLE 715. TEACHERS' RETIREMENT SYSTEM
CHAPTER 10. GENERAL OPERATIONS

[OAR Docket #09-321]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 11. Withdrawal from Membership and Refund of Deposits
715:10-11-7. Rollovers from OTRS to other eligible retirement plans
Subchapter 15. Service Retirement
715:10-15-26. Code Section 415 limits as applied to TRS
SUBMITTED TO GOVERNOR:
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March 4, 2009

[OAR Docket #09-321; filed 3-10-09]

Gubernatorial Approvals

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

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

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 13. FUEL ALCOHOL

[OAR Docket #09-373]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
35:13-1-1 [AMENDED]
35:13-1-2 [AMENDED]
GUBERNATORIAL APPROVAL:
March 4, 2009

[OAR Docket #09-373; filed 3-16-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 15. ANIMAL INDUSTRY

[OAR Docket #09-372]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 16. Contagious Equine Metritis
35:15-16-1 [AMENDED]
Subchapter 36. Scrapie
35:15-36-1 [AMENDED]
35:15-36-2 [AMENDED]
GUBERNATORIAL APPROVAL:
March 4, 2009

[OAR Docket #09-372; filed 3-16-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 15. ANIMAL INDUSTRY

[OAR Docket #09-377]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 49. Miscellaneous Animal Diseases [NEW]
Part 1. Malignant Catarrhal Fever [NEW]
35:15-49-1 through 35:15-49-5 [NEW]
GUBERNATORIAL APPROVAL:
March 4, 2009

[OAR Docket #09-377; filed 3-16-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. CONSUMER PROTECTION

[OAR Docket #09-374]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 17. Combined Pesticide
Part 6. Pesticidal Product Producing Establishments
35:30-17-13 [AMENDED]
Part 21. Standards for Disposal of Pesticide and Pesticide Containers
35:30-17-89.1 [AMENDED]
GUBERNATORIAL APPROVAL:
March 4, 2009

[OAR Docket #09-374; filed 3-16-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. CONSUMER PROTECTION

[OAR Docket #09-375]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 17. Combined Pesticide
Part 21. Standards for disposal of pesticide and pesticide containers
35:30-17-92 [AMENDED]
GUBERNATORIAL APPROVAL:
March 4, 2009

[OAR Docket #09-375; filed 3-16-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 37. FOOD SAFETY

[OAR Docket #09-376]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. Meat Inspection
Part 1. General Provisions
35:37-3-1 [AMENDED]
35:37-3-3 [AMENDED]
Subchapter 5. Poultry Products Inspection
Part 1. General Provisions
35:37-5-1 [AMENDED]
35:37-5-2 [AMENDED]
GUBERNATORIAL APPROVAL:
March 4, 2009

[OAR Docket #09-376; filed 3-16-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 44. AGRICULTURE POLLUTANT DISCHARGE ELIMINATION SYSTEM

[OAR Docket #09-352]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. Concentrated Animal Feeding Operations
35:44-3-3 [AMENDED]
GUBERNATORIAL APPROVAL:
March 2, 2009

[OAR Docket #09-352; filed 3-11-09]

TITLE 155. OKLAHOMA CONSERVATION COMMISSION CHAPTER 40. WATER QUALITY PROGRAMS

[OAR Docket #09-320]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
155:40-1-1 [NEW]
155:40-1-2 [NEW]
155:40-1-3 [NEW]
155:40-1-4 [NEW]
155:40-1-5 [NEW]
GUBERNATORIAL APPROVAL:
March 2, 2009

[OAR Docket #09-320; filed 3-9-09]

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

[OAR Docket #09-342]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 15. Regulations for Grants to Aid State Pipeline Safety Programs [NEW]
165:20-15-1. Regulations for grants to aid state pipeline safety programs [NEW]
GUBERNATORIAL APPROVAL:
March 6, 2009

[OAR Docket #09-342; filed 3-11-09]

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

[OAR Docket #09-451]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
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]
GUBERNATORIAL APPROVAL:
March 12, 2009

[OAR Docket #09-451; filed 3-24-09]

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

[OAR Docket #09-423]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 8. Six-Year Comprehensive Local Education Plan
210:15-8-3. Component of the Six-Year Plan [NEW]
GUBERNATORIAL APPROVAL:
February 19, 2009

[OAR Docket #09-423; filed 3-23-09]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #09-424]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 24. Science and Mathematics Advanced Recruiting Technique (SMART) Program [NEW]
210:20-24-1. Purpose [NEW]
210:20-24-2. Science and Mathematics Advanced Recruiting Technique (SMART) Program [NEW]
GUBERNATORIAL APPROVAL:
March 2, 2009

[OAR Docket #09-424; filed 3-23-09]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #09-425]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
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]
GUBERNATORIAL APPROVAL:
March 2, 2009

[OAR Docket #09-425; filed 3-23-09]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #09-426]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 23. School Board Members
210:20-23-3. Requirements for new school board member training [AMENDED]
GUBERNATORIAL APPROVAL:
March 2, 2009

[OAR Docket #09-426; filed 3-23-09]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #09-427]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 37. Adjunct Teachers
210:20-37-2. Adjunct teachers [AMENDED]
GUBERNATORIAL APPROVAL:
February 19, 2009

[OAR Docket #09-427; filed 3-23-09]

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

[OAR Docket #09-428]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 17. Co-Curricular and Extracurricular Programs
210:35-17-2. Co-curricular and extracurricular programs [AMENDED]
GUBERNATORIAL APPROVAL:
February 19, 2009

[OAR Docket #09-428; filed 3-23-09]

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

[OAR Docket #09-429]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 9. Additional Standards for Secondary Schools
Part 7. Standard IV: Curriculum, Instruction, Assessment and Climate
210:35-9-31. Program of studies and graduation requirements [AMENDED]
GUBERNATORIAL APPROVAL:
March 2, 2009

[OAR Docket #09-429; filed 3-23-09]

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

[OAR Docket #09-430]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 25. Student Entrance and Progression Through the System
210:35-25-3. Annual student dropout reports to local school boards [NEW]
GUBERNATORIAL APPROVAL:
March 2, 2009

[OAR Docket #09-430; filed 3-23-09]

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

[OAR Docket #09-431]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 25. Student Entrance and Progression Through the System
210:35-25-4. Annual student college remediation reports to local school boards [NEW]
GUBERNATORIAL APPROVAL:
February 19, 2009

[OAR Docket #09-431; filed 3-23-09]

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

[OAR Docket #09-432]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 87. Rules for Payment to Charter Schools
210:40-87-5. Charter School Application [NEW]
GUBERNATORIAL APPROVAL:
February 19, 2009

[OAR Docket #09-432; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 250. FEE SCHEDULE FOR CONSUMER HEALTH SERVICES

[OAR Docket #09-400]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. License Classifications and Associated Fees For Consumer Health Services
310:250-3-1 [AMENDED]
310:250-3-2 [AMENDED]
310:250-3-3 [AMENDED]
310:250-3-6 [AMENDED]
GUBERNATORIAL APPROVAL:
March 5, 2009

[OAR Docket #09-400; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 257. FOOD SERVICE ESTABLISHMENTS

[OAR Docket #09-401]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Chapter 257. Food Service Establishments [AMENDED]
GUBERNATORIAL APPROVAL:
March 5, 2009

[OAR Docket #09-401; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 320. PUBLIC BATHING ~~PLACES~~PLACE OPERATIONS

[OAR Docket #09-402]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
310:320-1-3 [NEW]
Subchapter 5. Forms and Tables
310:320-5-5 [AMENDED]
GUBERNATORIAL APPROVAL:
March 5, 2009

[OAR Docket #09-402; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 530. FAMILY PLANNING CENTERS

[OAR Docket #09-403]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
310:530-1-4 [AMENDED]
GUBERNATORIAL APPROVAL:
March 5, 2009

[OAR Docket #09-403; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 641. EMERGENCY MEDICAL SERVICES

[OAR Docket #09-404]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. Ambulance Services
Part 1. General Provisions
310:641-3-2 [AMENDED]
Part 7. Air Ambulances
310:641-3-31 [AMENDED]
310:641-3-32 [AMENDED]
310:641-3-33 [AMENDED]
310:641-3-34 [AMENDED]
310:641-3-35 [AMENDED]
310:641-3-36 [AMENDED]
310:641-3-37 [AMENDED]
310:641-3-38 [AMENDED]
310:641-3-39 [AMENDED]
Part 9. Specialty Care
310:641-3-43 [AMENDED]
310:641-3-47 [NEW]
Part 11. Medical Control
310:641-3-50 [AMENDED]
Part 19. Inspection, Correction, Actions
310:641-3-91 [AMENDED]
Subchapter 5. Personnel Licenses and Certification
Part 3. Emergency Medical Personnel Licenses
310:641-5-11 [AMENDED]
310:641-5-13 [AMENDED]
310:641-5-14 [AMENDED]
310:641-5-14.1 [NEW]
310:641-5-15 [AMENDED]
310:641-5-17 [AMENDED]
Part 5. ~~Instructor Qualifications~~Procedures Authorized
310:641-5-30 [AMENDED]
Subchapter 7. Training Programs
Part 3. Training Programs
310:641-7-10 [AMENDED]
310:641-7-13[AMENDED]
310-641-7-15 [AMENDED]
GUBERNATORIAL APPROVAL:
March 5, 2009

[OAR Docket #09-404; filed 3-23-09]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 664. HOME CARE ADMINISTRATOR CERTIFICATION

[OAR Docket #09-405]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. Initial Certificate Process
310:664-3-3 [AMENDED]
310:664-3-5 [AMENDED]
310:664-3-6 [AMENDED]
Subchapter 5. Preparedness Program
310:664-5-2 [AMENDED]
Subchapter 11. Renewal of Certification
310:664-11-1 [AMENDED]
310:664-11-3 [NEW]
GUBERNATORIAL APPROVAL:
March 5, 2009

[OAR Docket #09-405; filed 3-23-09]

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

[OAR Docket #09-456]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Individual Providers and Specialties
Part 6. Inpatient Psychiatric Hospitals
317:30-5-95.33. [AMENDED]
(Reference APA WF #08-38)
GUBERNATORIAL APPROVAL:
March 9, 2009

[OAR Docket #09-456; filed 3-24-09]

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

[OAR Docket #09-457]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Individual Providers and Specialties
Part 17. Medical Suppliers
317:30-5-216. [AMENDED]
(Reference APA WF # 08-36)
GUBERNATORIAL APPROVAL:
March 9, 2009

[OAR Docket #09-457; filed 3-24-09]

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

[OAR Docket #09-458]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Individual Providers and Specialties
Part 113. Oklahoma Living Choice Program [NEW]
317:30-5-1200. through 317:30-5-1206. [NEW]
(Reference APA WF # 08-34A)
GUBERNATORIAL APPROVAL:
March 9, 2009

[OAR Docket #09-458; filed 3-24-09]

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

[OAR Docket #09-459]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
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)
GUBERNATORIAL APPROVAL:
March 9, 2009

[OAR Docket #09-459; filed 3-24-09]

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

[OAR Docket #09-460]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Individual Providers and Specialties
Part 25. Psychologists
317:30-5-275. [AMENDED]
(Reference APA WF # 08-31)
GUBERNATORIAL APPROVAL:
March 9, 2009

[OAR Docket #09-460; filed 3-24-09]

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

[OAR Docket #09-461]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
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)
GUBERNATORIAL APPROVAL:
March 9, 2009

[OAR Docket #09-461; filed 3-24-09]

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

[OAR Docket #09-462]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
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)
GUBERNATORIAL APPROVAL:
March 9, 2009

[OAR Docket #09-462; filed 3-24-09]

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

[OAR Docket #09-463]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Individual Providers and Specialties
Part 35. Rural Health ~~Clinic~~ Clinics
317:30-5-356. [AMENDED]
(Reference APA WF # 08-11)
GUBERNATORIAL APPROVAL:
March 9, 2009

[OAR Docket #09-463; filed 3-24-09]

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

[OAR Docket #09-464]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-22.1.[AMENDED]
(Reference APA WF # 08-12)
GUBERNATORIAL APPROVAL:
March 9, 2009

[OAR Docket #09-464; filed 3-24-09]

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

[OAR Docket #09-465]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Individual Providers and Specialties
Part 33. Transportation by Ambulance

317:30-5-336.5. [AMENDED]
(Reference APA WF # 08-14)
GUBERNATORIAL APPROVAL:
March 9, 2009

[OAR Docket #09-465; filed 3-24-09]

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

[OAR Docket #09-466]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-5.1. [AMENDED]
(Reference APA WF# 08-16)
GUBERNATORIAL APPROVAL:
March 9, 2009

[OAR Docket #09-466; filed 3-24-09]

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

[OAR Docket #09-467]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
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)
GUBERNATORIAL APPROVAL:
March 9, 2009

[OAR Docket #09-467; filed 3-24-09]

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

[OAR Docket #09-468]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 23. Living Choice Program [NEW]
317:35-23-1. through 317:35-23-4. [NEW]
(Reference APA WF # 08-34B)
GUBERNATORIAL APPROVAL:
March 9, 2009

[OAR Docket #09-468; filed 3-24-09]

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

[OAR Docket #09-469]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
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)
GUBERNATORIAL APPROVAL:
March 9, 2009

[OAR Docket #09-469; filed 3-24-09]

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

[OAR Docket #09-470]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 18. Programs of All-Inclusive Care for the Elderly
317:35-18-10. [AMENDED]

(Reference APA WF #08-01)
GUBERNATORIAL APPROVAL:
March 9, 2009

[OAR Docket #09-470; filed 3-24-09]

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

[OAR Docket #09-471]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Member Services
Part 1. Agency Companion Services
317:40-5-8. [AMENDED]
(Reference APA WF # 08-03B)
GUBERNATORIAL APPROVAL:
March 9, 2009

[OAR Docket #09-471; filed 3-24-09]

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

[OAR Docket #09-334]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
340:1-1-18 [AMENDED]
Reference APA WF (08-17)
GUBERNATORIAL APPROVAL:
March 2, 2009

[OAR Docket #09-334; filed 3-10-09]

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

[OAR Docket #09-335]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 39. Planning, Research, and Statistics
340:2-39-1 [AMENDED]
Reference APA WF (08-18)
GUBERNATORIAL APPROVAL:
March 2, 2009

[OAR Docket #09-335; filed 3-10-09]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 10. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

[OAR Docket #09-482]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 2. Temporary Assistance For Needy Families (TANF) Work Program
340:10-2-1 [AMENDED]
340:10-2-4 [AMENDED]
340:10-2-5 through 340:10-2-7 [AMENDED]
Subchapter 3. Conditions of Eligibility - Need
Part 1. Resources
340:10-3-5 [AMENDED]
Part 3. Income
340:10-3-40 [AMENDED]
Part 5. Assistance Payments
340:10-3-56 through 340:10-3-57 [AMENDED]
Part 7. Transitional Benefits
340:10-3-75 [AMENDED]
340:10-3-81 [AMENDED]
Subchapter 7. Conditions of Eligibility - Residence
340:10-7-1 [AMENDED]
Subchapter 15. Conditions of Eligibility - Citizenship and Alienage
340:10-15-1 [AMENDED]
Subchapter 19. Eligibility requirements for Emergency Assistance to Needy Families with Children
340:10-19-2 [AMENDED]
Subchapter 22. Temporary Assistance for Needy Families (TANF) Supported Permanency Program
340:10-22-1 [AMENDED]
(Reference APA WF 08-09 and 08-25)
GUBERNATORIAL APPROVAL:
March 12, 2009

[OAR Docket #09-482; filed 3-25-09]

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

[OAR Docket #09-336]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
340:15-1-4 [AMENDED]
340:15-1-6 [AMENDED]
(Reference APA WF 08-19)
GUBERNATORIAL APPROVAL:
March 2, 2009

[OAR Docket #09-336; filed 3-10-09]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 20. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM [LIHEAP]

[OAR Docket #09-337]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. Low Income Home Energy Assistance Program
340:20-1-5 [AMENDED]
340:20-1-10 through 340:20-1-11 [AMENDED]
340:20-1-14 [AMENDED]
(Reference APA WF 08-20)
GUBERNATORIAL APPROVAL:
March 2, 2009

[OAR Docket #09-337; filed 3-10-09]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 40. CHILD CARE ~~SERVICES~~ SUBSIDY PROGRAM

[OAR Docket #09-338]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
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 340:40-7-6 [AMENDED]
340:40-7-8 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)
GUBERNATORIAL APPROVAL:
March 2, 2009

[OAR Docket #09-338; filed 3-10-09]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 40. CHILD CARE ~~SERVICES~~ SUBSIDY PROGRAM

[OAR Docket #09-481]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 13. Child Care Rates and Provider Issues
340:40-13-1 through 340:40-13-2 [AMENDED]
(Reference APA WF 08-26)
GUBERNATORIAL APPROVAL:
March 12, 2009

[OAR Docket #09-481; filed 3-25-09]

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

[OAR Docket #09-339]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
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]
Part 3. Income
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]
Part 3. Simplified Food Stamp Program (SFSP) for Temporary Assistance for Needy Families (TANF) and Companion State Supplemental Payment (SSP) Recipient(s)
340:50-11-23 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)

GUBERNATORIAL APPROVAL:
March 2, 2009

[OAR Docket #09-339; filed 3-10-09]

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

[OAR Docket #09-480]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 9. Eligibility and Benefit Determination Procedures
340:50-9-5 [AMENDED]
(Reference APA WF 08-27)

GUBERNATORIAL APPROVAL:
March 12, 2009

[OAR Docket #09-480; filed 3-25-09]

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

[OAR Docket #09-340]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
340:60-1-3 [AMENDED]
(Reference APA WF 08-08)

GUBERNATORIAL APPROVAL:
March 2, 2009

[OAR Docket #09-340; filed 3-10-09]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 65. PUBLIC ASSISTANCE PROCEDURES

[OAR Docket #09-479]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 1. General Provisions
340:65-1-2 through 340:65-1-3 [AMENDED]
Subchapter 3. Eligibility for Benefits
340:65-3-1 through 340:65-3-2 [AMENDED]
340:65-3-4 through 340:65-3-6 [AMENDED]
340:65-3-8 [AMENDED]
Subchapter 5. Procedures Relating to Case Changes
Part 1. General Provisions

340:65-5-2 through 340:65-5-3 [AMENDED]
(Reference APA WF 08-24)
GUBERNATORIAL APPROVAL:
March 12, 2009

[OAR Docket #09-479; filed 3-25-09]

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

[OAR Docket #09-341]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 8. Supplemental Security Income-Disabled Children's Program (SSI-DCP)
340:70-8-1 [AMENDED]
(Reference APA WF 08-23)
GUBERNATORIAL APPROVAL:
March 2, 2009

[OAR Docket #09-341; filed 3-10-09]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION
CHAPTER 20. PHYSICAL THERAPISTS AND ASSISTANTS

[OAR Docket #09-385]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
435:20-1-1.1. Definitions [AMENDED]
Subchapter 7. Supervision of Physical Therapist Assistants
435:20-7-1. Supervision of Physical Therapist Assistants [AMENDED]
GUBERNATORIAL APPROVAL:
March 2, 2009

[OAR Docket #09-385; filed 3-18-09]

TITLE 465. OKLAHOMA MOTOR VEHICLE COMMISSION
CHAPTER 10. LICENSE

[OAR Docket #09-509]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
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]
GUBERNATORIAL APPROVAL:
March 4, 2009

[OAR Docket #09-509; filed 3-26-09]

TITLE 465. OKLAHOMA MOTOR VEHICLE COMMISSION
CHAPTER 15. ADVERTISING

[OAR Docket #09-510]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
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]
GUBERNATORIAL APPROVAL:
March 4, 2009

[OAR Docket #09-510; filed 3-26-09]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #09-452]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 7. Collections and Disbursements
550:1-7-2 [AMENDED]
GUBERNATORIAL APPROVAL:
March 6, 2009

[OAR Docket #09-452; filed 3-24-09]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #09-452A]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 7. Collections and Disbursements
550:1-7-4 [AMENDED]
GUBERNATORIAL APPROVAL:
March 6, 2009

[OAR Docket #09-452A; filed 3-24-09]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 10. RETIREMENT AND PENSION BENEFIT PROGRAM

[OAR Docket #09-453]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
550:10-1-5 [AMENDED]
GUBERNATORIAL APPROVAL:
March 6, 2009

[OAR Docket #09-453; filed 3-24-09]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 15. OKLAHOMA POLICE DEFERRED OPTION PLAN

[OAR Docket #09-454]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
550:15-1-2 [AMENDED]
GUBERNATORIAL APPROVAL:
March 6, 2009

[OAR Docket #09-454; filed 3-24-09]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 20. PURCHASE OF TRANSFERRED CREDITED SERVICE

[OAR Docket #09-455]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
550:20-1-2 [AMENDED]
GUBERNATORIAL APPROVAL:
March 6, 2009

[OAR Docket #09-455; filed 3-24-09]

TITLE 735. STATE TREASURER CHAPTER 10. SECURITY FOR PUBLIC DEPOSITS

[OAR Docket #09-476]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
735:10-1-7. Collateral security through safekeeping banks other than the Federal Reserve Bank [AMENDED]
GUBERNATORIAL APPROVAL
March 2, 2009

[OAR Docket #09-476; filed 3-25-09]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 5. FEES

[OAR Docket #09-475]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
785:5-1-6. Stream water permit application and administration fees [AMENDED]
785:5-1-10. Groundwater application fees [AMENDED]
785:5-1-11. Well driller and pump installer licensing fees [AMENDED]
GUBERNATORIAL APPROVAL:
March 12, 2009

[OAR Docket #09-475; filed 3-25-09]

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

[OAR Docket #09-474]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
785:35-1-4. Violations and penalties [AMENDED]
785:35-1-5. Indemnity Fund [AMENDED]
GUBERNATORIAL APPROVAL:
March 12, 2009

[OAR Docket #09-474; filed 3-25-09]

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

[OAR Docket #09-473]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 7. Water and Sewer Program (Bond Proceed Loans and Emergency Grants) Requirements and Procedures
785:50-7-5. Emergency grant priority point system [AMENDED]
785:50-7-7. Disbursement of funds [AMENDED]
Subchapter 9. Clean Water State Revolving Fund Regulations
Part 1. General Provisions
785:50-9-9. Definitions [AMENDED]
Part 3. General Program Requirements
785:50-9-38. Construction phase [AMENDED]
Part 7. SRF Environmental Review Process
785:50-9-60. Requirement of environmental review [AMENDED]
785:50-9-61. Environmental information required by the Board [AMENDED]
785:50-9-62. Environmental review by the Board [AMENDED]
Subchapter 13. Oklahoma Water Conservation Grant Program [NEW]
785:50-13-1. Purpose [NEW]
785:50-13-2. Definitions [NEW]
785:50-13-3. Eligible entities [NEW]
785:50-13-4. Eligible projects [NEW]
785:50-13-5. Pilot project criteria [NEW]
785:50-13-6. Process for consideration of proposals [NEW]
785:50-13-7. Requirements for operation of projects [NEW]
785.50-13-8. Funding availability [NEW]
785.50-13-9. Funding disbursement and limitations [NEW]
785.50-13-10. General terms and conditions for grants [NEW]
GUBERNATORIAL APPROVAL:
March 12, 2009

[OAR Docket #09-473; filed 3-25-09]

Withdrawn Rules

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

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

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

TITLE 10. OKLAHOMA ACCOUNTANCY BOARD
CHAPTER 15. LICENSURE AND REGULATION OF ACCOUNTANCY

[OAR Docket #09-399]

RULEMAKING ACTION:
Withdrawal of PERMANENT rulemaking
WITHDRAWN RULES:
Subchapter 30. Continuing Professional Education
10:15-30-9 [AMENDED]
DATES:
Adoption:
February 27, 2009
Submitted to Governor:
March 4, 2009
Submitted to House:
March 4, 2009
Submitted to Senate:
March 4, 2009
Withdrawn:
March 23, 2009

[OAR Docket #09-399; filed 3-23-09]

TITLE 165. CORPORATION COMMISSION
CHAPTER 10. OIL & GAS CONSERVATION

[OAR Docket #09-396]

RULEMAKING ACTION:
Withdrawal of PERMANENT rulemaking
WITHDRAWN RULES:
Subchapter 1. Administration
Part 1. General Provisions
165:10-1-6. Duties and authority of the Conservation Division [AMENDED]
165:10-1-7. Prescribed forms [AMENDED]
Part 9. Purchasers and Transporters
165:10-1-49. Filing of nominations [AMENDED]
Subchapter 3. Drilling, Developing, and Producing
Part 1. Drilling
165:10-3-2. Notification of spudding of a new well [AMENDED]
165:10-3-4. Casing, cementing, wellhead equipment, and cementing reports [AMENDED]
Part 3. Completions
165:10-3-17. Well site and surface facilities [AMENDED]
Part 5. Operations
165:10-3-29. Oil storage [AMENDED]
Subchapter 5. Underground Injection Control
165:10-5-2. Approval of enhanced recovery injection wells or disposal wells
165-10-5-5. Application for approval of enhanced recovery injection and disposal operations [AMENDED]
165:10-5-7. Monitoring and reporting requirements for wells covered by 165:10-5-1 [AMENDED]
165:10-5-9. Duration of underground injection well orders <u>or permits</u> [AMENDED]
Subchapter 7. Pollution Abatement
Part 1. General Provisions
165:10-7-2. Administration and enforcement of rules [AMENDED]
165:10-7-4. Water quality standards [AMENDED]
Part 3. Storage and Disposal of Fluids
165:10-7-26. One-time land application of contaminated soils and petroleum hydrocarbon based drill cuttings [AMENDED]
Subchapter 11. Plugging and Abandonment
165:10-11-9. Temporary exemption from plugging requirements [AMENDED]
Subchapter 13. Determination of Allowables - Oil and Gas Wells
165:10-13-3. Production tests on new, re-entered, and recompleted wells [AMENDED]
Subchapter 15. Oil Well Production and Allowables
165:10-15-3. Effect of percentage penalty on oil wells [AMENDED]
165:10-15-5. Discovery oil allowables [AMENDED]
165:10-15-6. Production tests and reports for discovery oil pools [AMENDED]
165:10-15-13. Production tests and reports for unallocated oil wells [AMENDED]
Subchapter 17. Gas Well Operations and Permitted Production
165:10-17-9. Special allocated gas pools
Subchapter 21. Applications for Tax Exemptions
Part 8. Deep Wells
165:10-21-45. General [AMENDED]
SUBMITTED TO GOVERNOR:
March 2, 2008
SUBMITTED TO HOUSE:
March 2, 2008

SUBMITTED TO SENATE:
March 2, 2008

[OAR Docket #09-396; filed 3-20-09]

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

[OAR Docket #09-379]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 5. Individual Providers and Specialties
Part 17. Medical Suppliers
317:30-5-211.17. [NEW]
(Reference APA WF # 09-03)
AUTHORITY:
The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Consumer Protection for Wheeled Mobility Act, Section 1015.3 of Title 56 of Oklahoma Statutes
DATES:
Adoption:
February 12, 2009
Approved by Governor:
March 9, 2009
Effective:
April 1, 2009
Expiration:
Effective through July 14, 2010, 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 rules to comply with the Consumer Protection for Wheeled Mobility Act found at 56 O.S. 1015.3. The Act requires either a specialty evaluation or direct in-person involvement in the wheelchair selection process by an assistive technology professional (ATP) for all wheelchairs purchased by SoonerCare. Without this change, SoonerCare members may receive a wheelchair that is not fitted properly and does not adequately address their needs. Implementation of these new rules makes certain the needs of SoonerCare members are adequately assessed and members receive the appropriate wheelchair.
ANALYSIS:
Agency rules are revised to comply with the Consumer Protection for Wheeled Mobility Act found at 56 O.S. 1015.3. The Act requires either a specialty evaluation or direct in-person involvement in the wheelchair selection process by an Assistive Technology Professional (ATP) for all wheelchair purchased by SoonerCare. Prior to this act, there has been no requirement for suppliers to show competence in matching members with the right wheelchair. Many members spend all day in their wheelchairs and the common problems caused by getting the wrong chair include orthopedic deformation and pressure sores that are painful, debilitating, and slow and costly to heal. Current OHCA policy requires a prior authorization for the rental or purchase of both manually and electrically operated wheelchairs. A completed OHCA certificate of medical necessity signed by the member's physician and documentation to substantiate medical necessity is required to obtain the prior authorization; however, no other evaluation is needed. Requiring an additional assessment by either a certified health care professional or certified ATP ensures that SoonerCare members are evaluated by a person who has specific training and experience in fitting wheelchairs and the member receives the appropriate wheelchair.
CONTACT PERSON:
Tywanda Cox at (405)522-7153

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 APRIL 1, 2009:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 17. MEDICAL SUPPLIERS

317:30-5-211.17. Wheelchairs

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

(1) **"Assistive technology professional"** or **"ATP"** means a for-service provider who is involved in analysis of the needs and training of a consumer in the use of a particular assistive technology device or is involved in the sale and service of rehabilitation equipment or commercially available assistive technology products and devices.

(2) **"Custom seating system"** means a wheelchair seating system which is individually made for a member using a plaster model of the member, a computer generated model of the member (e.g., CAD-CAM technology), or the detailed measurements of the member to create either:

(A) a molded, contoured, or carved (foam or other suitable material) custom-fabricated seating system that is incorporated into the wheelchair base; or,

(B) a custom seating system made from multiple pre-fabricated components or a combination of custom fabricated materials and pre-fabricated components which have been configured and attached to the wheelchair base or incorporated into a wheelchair seat and/or back in a manner that the wheelchair could not be easily re-adapted for use by another individual.

(3) **"RESNA"** means the Rehabilitation Engineering and Assistive Technology Society of North America.

(4) **"Specialty evaluation"** means the determination and documentation of the consumer's pathology, history and prognosis, and the physiological, functional, and environmental factors that impact the selection of an appropriate wheeled mobility system.

(b) **Medical Necessity.** Medical necessity pursuant to OAC 317:30-5-211.2 is required for a wheelchair to be covered and reimbursed by SoonerCare.

(c) **Prior authorization.** Prior authorization pursuant to OAC 317:30-5-211.3 is required for a wheelchair to be covered and reimbursed by SoonerCare. All prior authorization requests for the purchase of a wheelchair must indicate the length of the warranty period and what is covered under the warranty.

(1) Wheelchairs, wheelchair parts and accessories, and wheelchair modifications that are beneficial primarily in allowing the member to perform leisure or recreational activities are not considered medically necessary and will not be authorized.

(2) Certain wheelchair parts, accessories, and/or modifications that are distinctly and separately requested and priced from the original wheelchair request require prior authorization.

(3) OCA will deny prior authorization requests when the required forms have not been fully completed or the member's medical record does not provide sufficient information to establish medical necessity or to determine that the criteria for coverage has been met.

(d) **Coverage and limitations.**

(1) For a member who resides in a personal residence, assisted living facility, Intermediate Care Facility for the Mentally Retarded (ICF/MR) or long term care facility, the following criteria must be met for the authorization to purchase a wheelchair.

(A) The member must have a prescription signed by a physician, a physician assistant, or an advanced registered nurse practitioner.

(B) The member must meet the requirements for medical necessity as determined and approved by the Oklahoma Health Care Authority.

(C) The member must either have:

(i) a specialty evaluation that was performed by a licensed or certified medical professional, such as a physical therapist, occupational therapist, or a physician who has specific training and experience in rehabilitation wheelchair evaluations, and that documents the medical necessity for the wheelchair and its special features; or

(ii) a wheelchair provided by a supplier that employs a RESNA certified assistive technology professional who specializes in wheelchairs and who has direct, in-person involvement in the wheelchair selection for the member.

(2) For members who reside in a long term care facility or ICF/MR, only wheelchairs with custom seating systems are eligible for direct reimbursement to providers of DME services. All standard manual and power wheelchairs without custom seating systems are the responsibility of the facility and are considered part of the facility's per diem rate.

(e) **Rental, repairs, maintenance and delivery.** Refer to OAC 317:30-5-211.4 through 317:30-5-211.5.

(f) **Documentation.**

(1) The specialty evaluation or wheelchair selection documentation must be submitted with the prior authorization request.

(2) The specialty evaluation or wheelchair selection must be performed no longer than 90 days prior to the submission of the prior authorization request.

(3) The results of the specialty evaluation or wheelchair selection documentation must support the information submitted on the certificate of medical necessity and the member's medical record.

(4) A copy of the dated and signed written specialty evaluation or wheelchair selection document must be maintained by the wheelchair provider. The results of the specialty evaluation or wheelchair selection must be written, signed and dated by the medical professional who evaluated the member or the ATP who was involved in the wheelchair selection for the member.

[OAR Docket #09-379; filed 3-17-09]

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

[OAR Docket #09-381]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 5. Individual Providers and Specialties
Part 21. Outpatient Behavioral Health Services
317:30-5-240. [AMENDED]
317:30-5-240.1. through 317:30-5-240.3. [NEW]
317:30-5-241. [AMENDED]
317:30-5-241.1. through 317:30-5-241.5. [NEW]
317:30-5-244. [AMENDED]
317:30-5-248. [AMENDED]
317:30-5-249. [NEW]
(Reference APA WF # 08-50)
AUTHORITY:
The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act and Sections 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.130
DATES:
Adoption:
February 12, 2009

Approved by Governor:
March 9, 2009
Effective:
April 1, 2009
Expiration:
Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
Superseded Rules:
Subchapter 5. Individual Providers and Specialties
Part 21. Outpatient Behavioral Health Services
317:30-5-241. [AMENDED]
(Reference APA WF # 08-26)
Gubernatorial approval:
September 23, 2008
Register publication:
26 Ok Reg 102
Docket number:
08-1280
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 which would add Multi-Systemic Therapy (MST) as a SoonerCare compensable service. MST provides an intensive home/family and community-based treatment for individuals who are at risk of out-of-home placement or are returning home from placement, and their families. Currently, the Office of Juvenile Affairs (OJA) provides this service and funds the program with 100% state dollars. Because of recent budget impacts at OJA due to recently enacted federal regulations, the MST services will be dramatically reduced unless another funding option is pursued. Providing MST through SoonerCare would enable OHCA to receive federal funds to assist in reimbursing MST providers. The additional funds would not only allow OJA to maintain the program, but would also allow them to expand the program and increase the access to care for Oklahoma adolescents suffering from serious antisocial behavior, thereby reducing recidivism rates. Emergency approval is also requested for rule revisions which remove billing procedure and rate details from the rules and will now be found in the Behavioral Health Billing Manual. These changes are necessary in order to facilitate a more expeditious process for changing provider reimbursement rates and billing policies than are afforded by the formal rule making process.
ANALYSIS:
Outpatient behavioral health rules are revised to: (1) add Multi-Systemic Therapy as a service option which will be provided by the Office of Juvenile Affairs staff who will also certify the state share; (2) revise rules to remove details related to billing procedures and terminology and instead refer providers to the Behavioral Health Provider Billing Manual; (3) amend policy to reflect appropriate terminology; and (4) expand the scope of provider qualifications for Psychiatric Social Rehabilitation Specialists.
CONTACT PERSON:
Tywanda Cox at (405)522-7153

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 APRIL 1, 2009:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 21. OUTPATIENT BEHAVIORAL HEALTH SERVICES

317:30-5-240. Eligible providers

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

~~(1) **"AOA"** means American Osteopathic Association.~~

~~(2) **"AOD"** means Alcohol and Other Drug.~~

~~(3) **"AODTP"** means Alcohol and Other Drug Treatment Professionals.~~

~~(4) **"ASAM"** means the American Society of Addiction Medicine.~~

~~(5) **"ASI"** means the Addiction Severity Index.~~

~~(6) **"CAR"** means Clinical Assessment Record.~~

~~(7) **"CARF"** means Commission on Accreditation of Rehabilitation Facilities.~~

~~(8) **"CHCs"** means Community Health Centers.~~

~~(9) **"CMHCs"** means Community Mental Health Centers.~~

~~(10) **"COA"** means Council on Accreditation of Services for Families and Children, Inc.~~

~~(11) **"Cultural Competency"** means the ability to recognize, respect, and address the unique needs, worth, thoughts, communications, actions, customs, beliefs, and values that reflect an individual's racial, ethnic, age group, religious, sexual orientation, and/or social group.~~

~~(12) **"DSM"** means the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.~~

~~(13) **"EBP"** means an Evidenced Based Practice per SAMHSA.~~

~~(14) **"FQHC"** means Federally Qualified Health Centers that are entities known as Community Health Centers.~~

~~(15) **"ICF/MR"** means Intermediate Care Facility for the Mentally Retarded.~~

~~(16) **"I/T/U"** means Indian Health Services/Tribal Clinics/Urban Tribal Clinic facilities.~~

~~(17) **"JCAHO"** means Joint Commission on Accreditation of Healthcare Organizations.~~

~~(18) **"LBHP"** means a Licensed Behavioral Health Professional.~~

~~(19) **"OAC"** means Oklahoma Administrative Code, the publication authorized by 75 O.S. 256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. 256(A)(1)(a) and maintained in the Office of Administrative Rules.~~

~~(20) **"Objectives"** means a specific statement of planned accomplishments or results that are specific, measurable, attainable, realistic, and time-limited.~~

~~(21) **"ODMHSAS"** means the Oklahoma Department of Mental Health and Substance Abuse Services.~~

~~(22) **"ODMHSAS Contracted Facilities"** means those providers that have a contract with the ODMHSAS to provide mental health or substance abuse treatment services, and also contract directly with the Oklahoma Health Care Authority to provide Outpatient Behavioral Health Services.~~

~~(23) **"OHCA"** means the Oklahoma Health Care Authority.~~

~~(24) **"Private Facilities"** means those providers that contract directly with the Oklahoma Health Care Authority to provide Outpatient Behavioral Health Services.~~

~~(25) **"PSRS"** means Psychiatric Social Rehabilitation Specialist.~~

~~(26) **"Public Facilities"** means those providers who are regionally based Community Mental Health Centers who are also contract directly with the Oklahoma Health Care Authority to provide Outpatient Behavioral Health Services.~~

~~(27) **"RBMS"** means Residential Behavioral Management Services within a group home or therapeutic foster home.~~

~~(28) **"RHC"** means Rural Health Clinic.~~

~~(29) **"Recovery"** means an ongoing process of discovery and/or rediscovery that must be self defined, individualized and may contain some, if not all, of the ten fundamental components of recovery as outlined by SAMHSA.~~

~~(30) **"SAMHSA"** means the Substance Abuse and Mental Health Services Administration.~~

~~(31) **"T-ASI"** means the Teen Alcohol Severity Index.~~

~~(32) **"Trauma Informed"** means the recognition and responsiveness to the presence of the effects of past and current traumatic experiences in the lives of members.~~

~~(b) **Provider Agency Requirements.** Rehabilitative services are provided by:~~

~~(1) Community based outpatient behavioral health organizations, that have a current accreditation status as a provider of behavioral health services, from the CARF, JCAHO, or COA. Providers accredited by CARF/JCAHO/COA must be able to demonstrate that the Scope of the current accreditation includes all programs, services and sites where SoonerCare compensated services are rendered. CARF/JCAHO/COA accredited providers will only receive SoonerCare reimbursement for services provided under the programs, which are accredited.~~

~~(A) Psychiatric Hospitals appropriately licensed and certified by the State Survey Agency as meeting Medicare psychiatric hospital standards including JCAHO accreditation. Psychiatric Hospitals must be able to demonstrate the scope of the current accreditation includes all programs and sites where SoonerCare Outpatient Behavioral services will be performed.~~

~~(B) Acute Care Hospitals appropriately licensed and certified by the State Survey Agency as meeting Medicare standards, including a JCAHO or AOA certification. Acute Care Hospitals must be able to demonstrate the scope of the current accreditation includes all programs and sites where Medicaid Outpatient Behavioral Health Services will be performed.~~

~~(C) Providers of Alcohol and other Drug Treatment Disorders must be certified by the designated state certifying agency, the ODMHSAS. Providers in this category must have achieved accreditation from JCAHO, CARF, or COA for the provision of outpatient alcohol and other drug treatment services.~~

~~(2) Eligible organizations must meet one of the following standards and criteria:~~

~~(A) Be an incorporated organization governed by a board of directors; or~~

~~(B) A state operated program under the direction of the ODMHSAS.~~

~~(3) Eligible organizations must meet each of the following:~~

~~(A) Have a well developed plan for rehabilitation services designed to meet the recovery needs of the individuals served.~~

~~(B) Have a multi disciplinary, professional team. This team must include all of the following:~~

~~(i) One of the following licensed behavioral health professionals:~~

~~(I) A Psychologist, Clinical Social Worker, Professional Counselor, Behavioral Practitioner, Marriage and Family Therapist, or Alcohol and Drug Counselor licensed in the state in which the services are delivered, or~~

~~(II) An Advanced Practice Nurse (certified in a psychiatric mental health specialty), licensed as a registered nurse with a current certification of recognition from the board of nursing in the state in which services are provided, or~~

~~(III) An allopathic or osteopathic physician with a current license and board certification in psychiatry in the state in which the service is delivered, or board eligible.~~

~~(ii) A Behavioral Health Rehabilitation Specialist as described in subsection (e) of this section, if individual or group rehabilitative services for mental illnesses are provided.~~

~~(iii) An Alcohol and Other Drug Treatment Professional if treatment of alcohol and other drug disorders is provided.~~

~~(iv) A registered nurse or physician assistant, with a current license to practice in the state in which the services are delivered if Medication Training and Support service is provided.~~

~~(v) The member for which the services will be provided, and parent/guardian for those under 18 years of age.~~

~~(vi) A member treatment advocate if desired and signed off on by the member.~~

~~(C) Demonstrate the ability to provide each of the following outpatient behavioral health treatment services as described in OAC 317:30-5-241, as applicable to their program. Providers must provide proper referral and linkage to providers of needed services if their agency does not have appropriate services.~~

~~(i) Mental Health Assessments and/or Alcohol and Drug assessments;~~

~~(ii) Individual, Group, and Family Psychotherapy;~~

~~(iii) Individual and Group Rehabilitative services and Alcohol and other Drug Related Services Skill development services;~~

~~(iv) Mental Health and/or Substance Abuse Services Plan done by a non-physician (moderate and low complexity; and~~

~~(v) Crisis Intervention services.~~

~~(D) Be available 24 hours a day, seven days a week, for Crisis Intervention services.~~

~~(E) Provide or have a plan for referral to physician and other behavioral health services necessary for the treatment of the behavioral disorders of the population served.~~

~~(F) Comply with all applicable Federal and State Regulations.~~

~~(G) Have appropriate written policy and procedures regarding confidentiality and protection of information and records, member grievances, member rights and responsibilities, and admission and discharge criteria, which shall be posted publicly and conspicuously.~~

~~(H) Demonstrate the ability to keep appropriate records and documentation of services performed.~~

~~(I) Maintain and furnish, upon request, a current report of fire and safety inspections of facilities clear of any deficiencies.~~

~~(J) Maintain and furnish, upon request, all required staff credentials including certified transcripts documenting required degrees.~~

~~(4) Provider Specialties.~~

~~(A) Public and ODMHSAS Contracted Programs Facilities – Public facilities are the regionally based Community Mental Health Centers and ODMHSAS contracted programs are providers that have a contract with the ODMHSAS to provide Mental Health and/or Substance Abuse Treatment Services.~~

~~(B) Private Programs – Private facilities are those facilities that contract directly with the Oklahoma Health Care Authority to provide Outpatient Behavioral Health Services.~~

~~(C) Federally Qualified Health Centers/Community Health Centers – FQHCs are those facilities that qualify under OAC 317:30-5-660.~~

~~(D) Indian Health Services/Tribal Clinics/Urban Tribal Clinics – I/T/Us are those facilities that qualify under Federal regulation.~~

~~(E) Rural Health Clinics – RHCs are those facilities that qualify under OAC 317:30-5-355.~~

~~(c)~~ **Provider enrollment and contracting.**

~~(1) Organizations who have JCAHO, CARF, COA or AOA accreditation will supply the documentation from the accrediting body, along with other information as required for contracting purposes to the OHCA. If the application is approved, a separate provider identification number for each outpatient Behavioral Health Service site will be assigned. The contract must include copies of all required state licenses, accreditation and SoonerCare certifications.~~

~~(2) Each site operated by an outpatient mental health facility must have a separate provider number. A site is defined as an office, clinic, or other business setting where outpatient behavioral health services are routinely performed. When services are rendered at the member's residence, a school, or when provided occasionally at an appropriate community based setting, a site is determined according to where the professional staff perform administrative duties and where the member's chart and other records are kept. Failure to obtain and utilize site specific provider numbers will result in disallowance of services.~~

~~(d)~~ **Licensed Behavioral Health Professional.** ~~Licensed Behavioral Health Professionals (LBHP) are defined as follows for the purpose of Outpatient Behavioral Health Services:~~

~~(1) Allopathic or Osteopathic Physicians with a current license and board certification in psychiatry or board eligible in the state in which services are provided, or a current resident in psychiatry practicing as described in OAC 317:30-5-2.~~

~~(2) Practitioners with a license to practice in the state in which services are provided or those actively and regularly receiving board approved supervision, and extended supervision by a fully licensed clinician if board's supervision requirement is met but the individual is not yet licensed, to become licensed by one of the licensing boards listed in (A) through (F) below. The exemptions from licensure under 59 _1353(4) (Supp. 2000) and (5), 59 § 1903(C) and (D) (Supp. 2000), 59 _1925.3(B) (Supp. 2000) and (C), and 59 _1932(C) (Supp. 2000) and (D) do not apply to Outpatient Behavioral Health Services.~~

~~(A) Psychology,~~

~~(B) Social Work (clinical specialty only),~~

~~(C) Professional Counselor,~~

~~(D) Marriage and Family Therapist,~~

~~(E) Behavioral Practitioner, or~~

~~(F) Alcohol and Drug Counselor.~~

~~(3) Advanced Practice Nurse (certified in a psychiatric mental health specialty), licensed as a registered nurse with a current certification of recognition from the board of nursing in the state in which services are provided.~~

~~(e)~~ **Psychiatric Social Rehabilitation Specialist.** ~~The definition of a Psychiatric Social Rehabilitation Specialist (PSRS) is as follows:~~

~~(1) Bachelor or master degree in a behavioral health related field including, but not limited to, psychology, social work, occupational therapy, human resources/services counseling, human developmental psychology, gerontology, early childhood development, chemical dependency, rehabilitative services, sociology, school guidance and counseling, criminal justice family studies, earned from a regionally accredited college or university recognized by the United States Department of Education; or~~

~~(2) Bachelor or master degree that demonstrates the individual completed and passed equivalent college level course work to meet the degree requirements of (1) of this subsection, as reviewed and approved by OHCA or its designated agent; or~~

~~(3) A current license as a registered nurse in the state where services are provided with behavioral health experience; or~~

~~(4) Certification as an Alcohol and Drug Counselor. Allowed to provide substance abuse rehabilitative treatment to those with alcohol and/or other drug dependencies or addictions as a primary or secondary DSMIV Axis I diagnosis; or~~

~~(5) Current certification as a Behavioral Health Case Manager from ODMHSAS and meets OHCA requirements to perform case management services, as described in OAC 317:30-5-585(1).~~

~~(f) **Alcohol and other Drug (AOD) Treatment Professionals (AODTP).** Alcohol and other Drug Treatment Professionals are defined as practitioners who are:~~

~~(1) Licensed to practice as an Alcohol and Drug Counselor in the state in which services are provided, or those actively and regularly receiving board approved supervision to become licensed;~~

~~(2) Certified as an Advanced Alcohol and Drug Counselor as recognized and approved by an ODMHSAS AOD treatment certifying and/or licensing body;~~

~~(3) Certified as an Alcohol and Drug Counselor as recognized and approved by an ODMHSAS AOD treatment certifying and/or licensing body; or~~

~~(4) A Licensed Behavioral Health Professional with a current license, or those actively and regularly receiving board approved supervision to become licensed, and extended supervision by a fully licensed clinician if board's supervision requirement is met but the individual is not yet licensed, to practice who can demonstrate competency in the area of alcohol and drug counseling and treatment.~~

All outpatient behavioral health providers eligible for reimbursement under OAC 317:30-5-240 et seq. must be an accredited organization/agency and have a current contract on file with the Oklahoma Health Care Authority. Eligibility requirements for independent professionals (e.g., physicians and psychologists), who provide outpatient behavioral health services and bill under their own taxpayer identification number are covered under OAC 317:30-5-1 and OAC 317:30-5-275. Other outpatient ambulatory clinics (e.g. Federally Qualified Health Centers, Indian Health Clinics, school-based clinics) that offer outpatient behavioral health services are covered elsewhere in the agency rules.

317:30-5-240.1. Definitions

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

"**Accrediting body**" means one of the following:

(A) Accreditation Association for Ambulatory Health Care (AAAHC);

(B) American Osteopathic Association (AOA);

(C) Commission on Accreditation of Rehabilitation Facilities (CARF);

(D) Council on Accreditation of Services for Families and Children, Inc. (COA);

(E) The Joint Commission (TJC) formerly known as Joint Commission on Accreditation of Healthcare Organizations; or

(F) other OHCA approved accreditation.

"**Adult**" means an individual 21 and over, unless otherwise specified.

"**AOD**" means Alcohol and Other Drug.

"**AODTP**" means Alcohol and Other Drug Treatment Professional.

"**BH**" means behavioral health, which relates to mental, substance abuse, addictions, gambling, and other diagnosis and treatment.

"**BHAs**" means Behavioral Health Aides.

"**BHRS**" means Behavioral Health Rehabilitation Specialist.

"**Child**" means an individual younger than 21, unless otherwise specified.

"**CHMCs**" means Community Mental Health Centers who are state operated or privately contracted providers of behavioral health services for adults with severe mental illnesses, and youth with serious emotional disturbances.

"**CM**" means case management.

"**Cultural competency**" means the ability to recognize, respect, and address the unique needs, worth, thoughts, communications, actions, customs, beliefs and values that reflect an individual's racial, ethnic, age group, religious, sexual orientation, and/or social group.

"**DSM**" means the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"**EBP**" means an Evidence Based Practice per the Substance Abuse & Mental Health Services Administration (SAMHSA).

"**FBCS**" means Facility Based Crisis Stabilization.

"**FSPs**" means Family Support Providers.

"**ICF/MR**" means Intermediate Care Facility for the Mentally Retarded.

"**Institution**" means an inpatient hospital facility or Institution for Mental Disease (IMD).

"**IMD**" means Institution for Mental Disease as per 42 CFR 435.1009 as a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care and related services. The regulations indicate that an institution is an IMD if its overall character is that of a facility established and maintained primarily for the care and treatment of individuals with mental diseases. Title XIX of the Social Security Act provides that, except for individuals under age 21 receiving inpatient psychiatric care, Medicaid (Title XIX) does not cover services to IMD patients under 65 years of age [section 1905(a)(24)(B)].

"**LBHP**" means a Licensed Behavioral Health Professional.

"**MST**" means the EBP Multi-Systemic Therapy.

"**OAC**" means Oklahoma Administrative Code, the publication authorized by 75 O.S. 256 known as The Oklahoma

Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. 256(A)(1)(a) and maintained in the Office of Administrative Rules.

"Objectives" means a specific statement of planned accomplishments or results that are specific, measurable, attainable, realistic, and time-limited.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"ODMHSAS contracted facilities" means those providers that have a contract with the ODMHSAS to provide mental health or substance abuse treatment services, and also contract directly with the Oklahoma Health Care Authority to provide Outpatient Behavioral Health Services.

"OHCA" means the Oklahoma Health Care Authority.

"OJA" means the Office of Juvenile Affairs.

"Provider Manual" means the OHCA BH Provider Billing Manual.

"RBMS" means Residential Behavioral Management Services within a group home or therapeutic foster home.

"Recovery" means an ongoing process of discovery and/or rediscovery that must be self defined, individualized and may contain some, if not all, of the ten fundamental components of recovery as outlined by SAMHSA.

"RSS" means Recovery Support Specialist.

"SAMHSA" means the Substance Abuse and Mental Health Services Administration.

"SED" means Severe Emotional Disturbance.

"SMI" means Severely Mentally Ill.

"Trauma informed" means the recognition and responsiveness to the presence of the effects of past and current traumatic experiences in the lives of members.

317:30-5-240.2. Provider participation standards

(a) **Accreditation status.** Any agency may participate as an OPBH provider if the agency is qualified to render a covered service and meets the OHCA requirements for provider participation.

(1) Private, Community-based Organizations must be accredited as a provider of outpatient behavioral health services from one of the accrediting bodies and be an incorporated organization governed by a board of directors;

(2) State-operated programs under the direction of ODMHSAS must be accredited by one of the accrediting bodies;

(3) Freestanding Psychiatric Hospitals must be licensed and certified by the State Survey Agency as meeting Medicare psychiatric hospital standards and JCAHO accreditation;

(4) General Medical Surgical Hospitals must be appropriately licensed and certified by the State Survey Agency as meeting Medicare standards, including a JCAHO or AOA accreditation;

(5) Federally Qualified Health Centers/Community Health Centers facilities that qualify under OAC 317:30-5-660;

(6) Indian Health Services/Tribal Clinics/Urban Tribal Clinics facilities that qualify under Federal regulation;

(7) Rural Health Clinics facilities that qualify under OAC 317:30-5-355;

(8) Public Health Clinics and County Health Departments;

(9) Public School Systems.

(b) **Certifications.** In addition to the accreditation in paragraph (a) above, provider specific certifications are required for the following:

(1) Substance Abuse agencies (OAC 450:18-1-1);

(2) Evidenced Based Best Practices but not limited to:

(A) Assertive Community Treatment (OAC 450:55-1-1);

(B) Multi-Systemic Therapy (Office of Juvenile Affairs); and

(C) Peer Support/Community Recovery Support;

(3) Systems of Care (OAC 340:75-16-46);

(4) Mobile and Facility-based Crisis Intervention (OAC 450:23-1-1);

(5) Case Management (OAC 450:50-1-1);

(6) RBMS in group homes (OAC 377:10-7) or foster care settings (OAC 340:75-8-4);

(7) Day Treatment - CARF, JCAHO, and COA will be required as of December 31, 2009; and

(8) Partial Hospitalization/Intensive Outpatient CARF, JCAHO, and COA will be required as of December 31, 2009.

(c) **Provider enrollment and contracting.**

(1) Organizations who have JCAHO, CARF, COA or AOA accreditation will supply the documentation from the accrediting body, along with other information as required for contracting purposes to the OHCA. The contract must include copies of all required state licenses, accreditation and certifications.

(2) If the contract is approved, a separate provider identification number for each outpatient behavioral health service site will be assigned. Each site operated by an outpatient behavioral health facility must have a separate provider contract and site-specific accreditation and/or certification as applicable. A site is defined as an office, clinic, or other business setting where outpatient behavioral health services are routinely performed. When services are rendered at the member's residence, a school, or when provided occasionally at an appropriate community based setting, a site is determined according to where the professional staff perform administrative duties and where the member's chart and other records are kept. Failure to obtain and utilize site specific provider numbers will result in disallowance of services.

(d) **Standards and criteria.** Eligible organizations must meet each of the following:

(1) Have a well-developed plan for rehabilitation services designed to meet the recovery needs of the individuals served.

(2) Have a multi-disciplinary, professional team. This team must include all of the following:

(A) One of the LBHPs;

(B) A BHRS, if individual or group rehabilitative services for behavioral health disorders are provided;

(C) An AODTP, if treatment of alcohol and other drug disorders is provided;

(D) A registered nurse or physician assistant, with a current license to practice in the state in which the services are delivered if Medication Training and Support service is provided;

(E) The member for whom the services will be provided, and parent/guardian for those under 18 years of age.

(F) A member treatment advocate if desired and signed off on by the member.

(3) Demonstrate the ability to provide each of the following outpatient behavioral health treatment services as described in OAC 317:30-5-241 et seq., as applicable to their program. Providers must provide proper referral and linkage to providers of needed services if their agency does not have appropriate services.

(A) Assessments and Treatment Plans;

(B) Psychotherapies;

(C) Behavioral Health Rehabilitation services;

(D) Crisis Intervention services;

(E) Support Services; and

(F) Day Treatment/Intensive Outpatient.

(4) Be available 24 hours a day, seven days a week, for Crisis Intervention services.

(5) Provide or have a plan for referral to physician and other behavioral health services necessary for the treatment of the behavioral disorders of the population served.

(6) Comply with all applicable Federal and State Regulations.

(7) Have appropriate written policy and procedures regarding confidentiality and protection of information and records, member grievances, member rights and responsibilities, and admission and discharge criteria, which shall be posted publicly and conspicuously.

(8) Demonstrate the ability to keep appropriate records and documentation of services performed.

(9) Maintain and furnish, upon request, a current report of fire and safety inspections of facilities clear of any deficiencies.

(10) Maintain and furnish, upon request, all required staff credentials including certified transcripts documenting required degrees.

317:30-5-240.3. Staff Credentials

(a) **Licensed Behavioral Health Professional (LBHPs).** LBHPs are defined as follows:

(1) Allopathic or Osteopathic Physicians with a current license and board certification in psychiatry or board eligible in the state in which services are provided, or a current resident in psychiatry practicing as described in OAC 317:30-5-2.

(2) Practitioners with a license to practice in the state in which services are provided or those actively and regularly receiving board approved supervision, and extended supervision by a fully licensed clinician if board's supervision requirement is met but the individual is not yet licensed, to become licensed by one of the licensing boards listed in (A) through (F) of this paragraph. The exemptions from licensure under 59 §1353(4) (Supp. 2000) and (5), 59 §1903(C) and (D) (Supp. 2000), 59 §1925.3(B) (Supp. 2000) and (C), and 59 '1932(C) (Supp. 2000) and (D) do not apply to Outpatient Behavioral Health Services.

(A) Psychology,

(B) Social Work (clinical specialty only),

(C) Professional Counselor,

(D) Marriage and Family Therapist,

(E) Behavioral Practitioner, or

(F) Alcohol and Drug Counselor.

(3) Advanced Practice Nurse (certified in a psychiatric mental health specialty), licensed as a registered nurse with a current certification of recognition from the board of nursing in the state in which services are provided.

(4) A Physician Assistant who is licensed in good standing in this state and has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions.

(b) **Alcohol and other Drug Treatment Professionals (AODTPs).** AODTPs are defined as follows:

(1) Licensed to practice as an Alcohol and Drug Counselor in the state in which services are provided, or those actively and regularly receiving board approved supervision to become licensed;

(2) Certified as an Advanced Alcohol and Drug Counselor as recognized and approved by an ODMHSAS AOD treatment certifying and/or licensing body;

(3) Certified as an Alcohol and Drug Counselor as recognized and approved by an ODMHSAS AOD treatment certifying and/or licensing body; or

(4) A Licensed Behavioral Health Professional with a current license, or those actively and regularly receiving board approved supervision to become licensed, and extended supervision by a fully licensed clinician if board's supervision requirement is met but the individual is not yet licensed, to practice who can demonstrate competency in the area of alcohol and drug counseling and treatment.

(c) **Behavioral Health Rehabilitation Specialists (BHRS).** BHRSs are defined as follows:

(1) Bachelor or master degree in a behavioral health related field including, psychology, social work, occupational therapy, human resources/services counseling, human developmental psychology, gerontology, early childhood development, chemical dependency, rehabilitative services, sociology, school guidance and counseling, education, criminal justice family studies, earned from a regionally accredited college or university recognized by the United States Department of Education; or

(2) Bachelor or master degree that demonstrates the individual completed and passed equivalent college level course work to meet the degree requirements of (1) of this subsection, as reviewed and approved by OHCA or its designated agent; or

(3) A current license as a registered nurse in the state where services are provided; or

(4) Certification as an Alcohol and Drug Counselor. They are allowed to provide substance abuse rehabilitative

treatment to those with alcohol and/or other drug dependencies or addictions as a primary or secondary DSM-IV Axis I diagnosis; or

(5) Current certification as a Behavioral Health Case Manager from ODMHSAS as described in OAC 317:30-5-585(1).

(d) **Multi-Systemic Therapy (MST) Provider.** Masters level who work on a team established by OJA which may include Bachelor level staff.

(e) **Community Recovery Support Specialist (RSS).** RSSs are defined as follows:

(1) The community/recovery support worker must meet the following criteria:

(A) High School diploma or GED;

(B) Minimum one year participation in local or national member advocacy or knowledge in the area of behavioral health recovery;

(C) current or former member of behavioral health services; and

(D) successful completion of the ODMHSAS Recovery Support Provider Training and Test.

(f) **Family Support and Training Provider (FSP).** FSPs are defined as follows:

(1) Have a high school diploma or equivalent;

(2) be 21 years of age and have successful experience as a family member of a child or youth with serious emotional disturbance, or a minimum of 2 years experience working with children with serious emotional disturbance or be equivalently qualified by education in the human services field or a combination of work experience and education with one year of education substituting for one year of experience (preference is given to parents or care givers of child with SED);

(3) successful completion of ODMHSAS Family Support Training;

(4) pass background checks; and

(5) treatment plans must be overseen and approved by a LBHP; and

(6) must function under the general direction of a LBHP or systems of care team, with a LBHP available at all times to provide back up, support, and/or consultation.

(g) **Behavioral Health Aide (BHA).** BHAs are defined as follows:

(1) Behavioral Health Aides must have completed 60 hours or equivalent of college credit; or

(2) may substitute one year of relevant employment and/or responsibility in the care of children with complex emotional needs for up to two years of college experience; and

(3) must have successfully completed the specialized training and education curriculum provided by the ODMHSAS; and

(4) must be supervised by a bachelor's level individual with a minimum of two years case management experience; and

(5) treatment plans must be overseen and approved by a LBHP; and

(6) must function under the general direction of a LBHP and/or systems of care team, with a LBHP available at all times to provide back up, support, and/or consultation.

317:30-5-241. ~~Coverage for adults and children~~ Covered Services

(a) ~~**Service descriptions and conditions.**~~ Outpatient behavioral health services are covered for adults and children as set forth in this Section and following the requirements as defined in the OHCA BH Provider Billing Manual, unless specified otherwise, and when provided in accordance with a documented individualized service plan, developed to treat the identified ~~mental~~ behavioral health and/or substance abuse disorder(s). ~~All services are to be for the goal of improvement of functioning, independence, or well-being of the member. The services and treatment plans are to be recovery focused, trauma and co-occurring specific. The member must be able to actively participate in the treatment. Active participation means that the member must have sufficient cognitive abilities, communication skills, and short-term memory to derive a reasonable benefit from the treatment. The assessment must include a DSM multi-axial diagnosis completed for all five axes from the most recent DSM version. All services will be subject to medical necessity criteria and will require prior authorization. For all outpatient behavioral health facilities, the OHCA, or its designated agent, will comply with established medical necessity criteria. Non prior authorized services will not be SoonerCare compensable with the exception of Mental Health Assessment by a Non Physician, Alcohol and Drug Assessment, Mental Health Service Plan Development (moderate complexity), Alcohol and/or Substance Abuse Services Treatment Plan Development (moderate complexity), Crisis Intervention, and Adult Facility Based Crisis Stabilization. Payment is not made for outpatient behavioral health services for children who are receiving Residential Behavioral Management Services in a Group Home or Therapeutic Foster Care unless authorized by the OHCA or its designated agent as medically necessary. Adults and children in Facility Based Crisis Intervention Services cannot receive additional outpatient behavioral health services outside of the admission and discharge dates. Residents of nursing facilities are not eligible for outpatient behavioral health services.~~

~~(1) **Mental Health Assessment by a Non-Physician.** All agencies must assess the medical necessity of each individual to determine the appropriate level of care. The assessment must contain but is not limited to the following:~~

~~(A) Date, to include month, day and year of the assessment sessions(s), more than one session can be billed in multiple units;~~

~~(B) Source of information;~~

~~(C) Member's first name, middle initial and last name;~~

~~(D) Gender;~~

~~(E) Birth date;~~

~~(F) Home address;~~

~~(G) Telephone number;~~

~~(H) Referral source;~~
~~(I) Reason for referral;~~
~~(J) Person to be notified in case of emergency;~~
~~(K) Presenting reason for seeking services;~~
~~(L) Psychiatric social information, which includes: personal history, including; family B social; educational; cultural and religious orientation; occupational B military; sexual; marital; domestic violence or sexual assault (including child abuse/neglect and child welfare involvement); recreation and leisure; financial; clinical treatment history including past and current medical and psychiatric diagnoses, symptoms, and treatment recommendations; legal or criminal record, including the identification of key contacts, i.e. attorneys, probation officers, etc. when appropriate; substance abuse and dependence, both current and historical; gambling abuse and dependence, both current and historical; and present life situation.~~
~~(M) Mental status information, including questions regarding:~~
~~(i) physical presentation, such as general appearance, motor activity, attention and alertness, etc.;~~
~~(ii) affective process, such as mood, affect, manner and attitude, etc., and~~
~~(iii) cognitive process, such as intellectual ability, social adaptive behavior, thought processes, thought content, and memory, etc; and~~
~~(iv) Full Five Axes DSM diagnosis.~~
~~(N) A section on health history and pharmaceutical information, with pharmaceutical information to include the following for both current and past medications:~~
~~(i) name of medication;~~
~~(ii) strength and dosage of medication;~~
~~(iii) length of time on the medication;~~
~~(iv) benefit(s) and side effects of medication; and~~
~~(v) level of functionality.~~
~~(O) Identification of the member's strengths, needs, abilities, and preferences:~~
~~(i) LBHP's interpretation of findings;~~
~~(ii) signature and credentials of LBHP.~~
~~(P) The assessment includes all elements and tools required by the OHCA. For adults, it may include interviews or communications with family, caretakers, or other support persons as permitted by the member. For children under the age of 16, it includes an interview with a parent, or other adult caretaker. For children, the assessment must also include information on school performance and school based services. This service is performed by an LBHP. The minimum face to face time spent in assessment session(s) with the member and others as identified previously in this paragraph for a low complexity Mental Health Assessment by a Non-Physician is one and one half hours. For a moderate complexity, it is two hours or more. This service is compensable on behalf of a member who is seeking services for the first time from the contracted agency. This service is not compensable if the member has previously received or is currently receiving services from the agency, unless there has been a gap in services of more than six months and it has been more than one year since the previous assessment.~~

~~(2) **Alcohol and Drug Assessment.** All providers must assess the medical necessity of each individual to determine the appropriate level of care. The assessment contains but is not limited to the following:~~
~~(A) Date, to include month, day and year of the assessment sessions(s), more than one session can be billed in multiple units;~~
~~(B) Source of information;~~
~~(C) Member's first name, middle initial and last name;~~
~~(D) Gender;~~
~~(E) Birth date;~~
~~(F) Home address;~~
~~(G) Telephone number;~~
~~(H) Referral source;~~
~~(I) Reason for referral;~~
~~(J) Person to be notified in case of emergency;~~
~~(K) Presenting reason for seeking services; and~~
~~(L) Psychiatric social information, which must include:~~
~~(i) personal history, including: family B social; educational; cultural and religious orientation; occupational B military; sexual; marital; domestic violence or sexual assault (including child abuse/neglect and child welfare involvement); recreation and leisure; and financial;~~
~~(ii) clinical treatment history including past and current medical and psychiatric diagnoses, symptoms, and treatment recommendations;~~
~~(iii) legal or criminal record, including the identification of key contacts, i.e. attorneys, probation officers, etc. when appropriate;~~
~~(iv) substance abuse and dependence, both current and historical;~~
~~(v) gambling abuse and dependence, both current and historical;~~
~~(M) Present life situation;~~
~~(N) Mental status information, including questions regarding:~~
~~(i) physical presentation, such as general appearance, motor activity, attention and alertness, etc.;~~
~~(ii) affective process, such as mood, affect, manner and attitude, etc.; and~~
~~(iii) cognitive process, such as intellectual ability, social adaptive behavior, thought processes, thought content, and memory, etc.;~~
~~(O) Full Five Axes DSM diagnosis;~~
~~(P) A section on health history and pharmaceutical information, with pharmaceutical information to~~

~~include the following for both current and past medications:~~

~~(i) name of medication;~~

~~(ii) strength and dosage of medication;~~

~~(iii) length of time on the medication;~~

~~(iv) benefit(s) and side effects of medication; and~~

~~(v) level of functionality;~~

~~(Q) Identification of the member's strengths, needs, abilities, and preferences:~~

~~(i) AODTP OR LBHP's interpretation of findings; and~~

~~(ii) signature and credentials of AODTP OR LBHP;~~

~~(R) The assessment includes all elements and tools required by the OHCA; and~~

~~(S) For adults, it may include interviews and/or communication with family, caretakers or other support persons as permitted by the member. For children under the age of 16, it must include an interview with a parent or other adult caretaker. For children, the assessment also includes information on school performance and school based services. This service is performed by an AODTP or LBHP. The minimum face to face time spent in assessment with the member (and other family or caretakers as previously described in this paragraph) for a low complexity is one and one half hours. For a moderate complexity, it is two hours or more. This service is compensable on behalf of a member who is seeking services for the first time from the contracted agency. The service is not compensable if the member has previously received or is currently receiving services from the agency, unless there has been a gap in services of more than six months and it has been more than one year since the previous assessment.~~

~~(3) **Mental Health Services Plan Development by a Non-Physician (moderate complexity).**~~

~~(A) Mental Health Services Plan Development by a Non-Physician (moderate complexity) is performed by the practitioners and others who will comprise the treatment team. It is performed with the direct active participation of the member and a member support person or advocate if requested by the member. In the case of children under the age of 16, it is performed with the participation of the parent or guardian and the child as age and developmentally appropriate.~~

~~(B) The Mental Health Services Plan is developed based on information obtained in the mental health assessment and includes the evaluation of assessment and determined diagnosis by the practitioners and the member of all pertinent information. It includes a discharge plan. It is a process whereby an individualized rehabilitation plan is developed that addresses the member's strengths, functional assets, weaknesses or liabilities, treatment goals, objectives and methodologies that are specific and time limited.~~

~~(C) For adults, it is focused on recovery and achieving maximum community interaction and involvement including goals for employment, independent living, volunteer work, or training. For children, the service plan addresses school and educational concerns and assisting the family in caring for the child in the least restrictive level of care.~~

~~(D) Comprehensive and integrated service plan content addresses the following:~~

~~(i) member strengths, needs, abilities, and preferences;~~

~~(ii) identified presenting challenges, problems, needs, and diagnosis;~~

~~(iii) specific goals for the member;~~

~~(iv) objectives that are specific, measurable, attainable, realistic, and time limited (unless the individual is on a recovery maintenance/relapse prevention services plan, then objectives may be broad while the progress notes are detailed);~~

~~(v) each type of service and estimated frequency to be received;~~

~~(vi) each treatment methodology for individual, interactive, group and family psychotherapies the provider will utilize;~~

~~(vii) the practitioner(s) name and credentials that will be providing and responsible for each service;~~

~~(viii) any needed referrals for services;~~

~~(ix) specific discharge criteria;~~

~~(x) description of the member's involvement in, and responses to, the treatment plan, and his/her signature and date;~~

~~(xi) service plans are not valid until all signatures are present (signatures are required from the member, the parent/guardian when applicable, and the primary LBHP); and~~

~~(xii) changes in service plans can be documented in a service plan update (low complexity) or in the progress notes until time for the update (low complexity).~~

~~(E) One unit per SoonerCare member per provider is allowed without prior authorization. If determined by the OHCA or its designated agent, one additional unit per year may be authorized.~~

~~(4) **Mental Health Services Plan Development by a Non-Physician (low complexity).**~~

~~(A) Mental Health Services Plan Development by a Non-Physician (low complexity) is for the purpose of reviewing, revising and updating an established Mental Health Services Plan. All elements of the plan must be reviewed with the member and treatment progress assessed.~~

~~(B) Updates to goals, objectives, service provider, services, and service frequency, can be documented in a progress note until the six month review/update is due.~~

~~(C) Service plan updates must address the following:~~

~~(i) progress, or lack of, on previous service plan goals and/or objectives;~~

~~(ii) a statement documenting a review of the current service plan and an explanation if no changes are to be made to the service plan;~~

~~(iii) change in goals and/or objectives (including target dates) based upon member's progress or identification of new need, challenges and problems;~~

~~(iv) change in frequency and/or type of services provided;~~

~~(v) change in treatment methodology(ies) for individual, interactive, group and family psychotherapies the provider will utilize;~~

~~(vi) change in practitioner(s) who will be responsible for providing services on the plan;~~

~~(vii) additional referrals for needed services;~~

~~(viii) change in discharge criteria;~~

~~(ix) description of the member's involvement in, and responses to, the treatment plan, and his/her signature and date; and~~

~~(x) service plans are not valid until all signatures are present. The required signatures are: the member (if over age 14), the parent/guardian (if under age 16 or otherwise applicable), and the primary LBHP.~~

~~(D) Service Plan updates are required every six months during active treatment. Updates can be conducted whenever needed as determined by the provider and member.~~

~~(5) **Alcohol and/or Substance Abuse Services, Treatment Plan Development (moderate complexity).**~~

~~(A) Alcohol and Substance Abuse Treatment Plan Development (moderate complexity) is to be performed by the AODTP practitioners and others who will comprise the treatment team. The current edition of the ASAM criteria or other required tool is to be utilized and followed.~~

~~(B) The service is performed with the direct active participation of the member and a member support person or advocate if requested by the member. In the case of children under the age of 16, it is performed with the participation of the parent or guardian and the child as age and developmentally appropriate. The Plan is developed based on information obtained in the assessment and includes the evaluation of all pertinent information by the practitioners and the member. The service includes a discharge plan. The service is a process whereby an individualized rehabilitation plan is developed that addresses the member's strengths, functional assets, weaknesses or liabilities, treatment goals, objectives and methodologies that are specific and time limited.~~

~~(C) For adults, it is focused on recovery and achieving maximum community interaction and involvement including goals for employment, independent living, volunteer work, or training. For children, the service plan must address school and educational concerns and assist the family in caring for the child in the least restrictive level of care.~~

~~(D) Comprehensive and integrated service plan contents must address the following:~~

~~(i) member strengths, needs, abilities, and preferences;~~

~~(ii) identified presenting challenges and problems, needs, and diagnosis;~~

~~(iii) specific goals for the member;~~

~~(iv) objectives that are specific, measurable, attainable, realistic and time limited (unless the individual is on a recovery maintenance/relapse prevention services plan, then objectives may be broad while the progress notes are detailed);~~

~~(v) each type of service and estimated frequency to be received;~~

~~(vi) each treatment methodology for individual, interactive, group and family psychotherapies the provider will utilize;~~

~~(vii) the practitioner(s) name and credentials who will be providing and responsible for each service;~~

~~(viii) any needed referrals for services;~~

~~(ix) specific discharge criteria;~~

~~(x) description of the member's involvement in, and responses to, the treatment plan, and his/her signature and date;~~

~~(xi) service plans are not valid until all signatures are present. The required signatures are: the member (if over age 14), the parent/guardian (if under age 16 or otherwise applicable), and the primary LBHP; and~~

~~(xii) changes in service plans can be documented in a Service Plan Update (low complexity) or in the progress notes until time for the Update (low complexity).~~

~~(6) **Alcohol and/or Substance Abuse Treatment Plan Development (low complexity).**~~

~~(A) Alcohol and/or Substance Abuse Treatment Plan Development (low complexity) is for the purpose of reviewing, revising and updating an established Mental Health Services Plan. The ASAM criteria or other required tool is utilized in the development of the Plan. All elements of the plan are reviewed with the member and treatment progress assessed.~~

~~(B) Alcohol and/or Substance Abuse Treatment Plan Development (low complexity) are provided by the treatment team members.~~

~~(C) Service plan updates are to address the following:~~

~~(i) progress, or lack of, on previous service plan goals and/or objectives;~~

~~(ii) a statement documenting a review of the current service plan and an explanation if no changes are to be made to the service plan;~~

~~(iii) change in goals and/or objectives (including target dates) based upon member's progress or~~

~~identification of new need, challenges and problems;~~

~~(iv) change in frequency and/or type of services provided;~~

~~(v) change in treatment methodology(ies) for individual, interactive, group and family psychotherapies the provider will utilize;~~

~~(vi) change in practitioner(s) who will be responsible for providing services on the plan;~~

~~(vii) additional referrals for needed services;~~

~~(viii) change in discharge criteria;~~

~~(ix) description of the member's involvement in, and responses to, the treatment plan, and his/her signature and date;~~

~~(x) service plans are not valid until all signatures are present. The required signatures are the:~~

~~(I) member (if over age 14),~~

~~(II) parent/guardian (if under age 16 or otherwise applicable), and~~

~~(III) primary LBHP.~~

~~(D) Updates to goals, objectives, service provider, services, and service frequency, can be documented in a progress note until the six-month review/update is due.~~

~~(E) Service Plan updates are required every six months during which services are provided. Updates can be conducted whenever needed as determined by the provider and member.~~

~~(7) **Individual/Interactive Psychotherapy.**~~

~~(A) Individual Psychotherapy is a face-to-face treatment for mental illnesses and behavioral disturbances, in which the clinician, through definitive therapeutic communication, attempts to alleviate the emotional disturbances, reverse or change maladaptive patterns of behavior and encourage growth and development. Insight oriented, behavior modifying and/or supportive psychotherapy refers to the development of insight of affective understanding, the use of behavior modification techniques, the use of supportive interactions, the use of cognitive discussion of reality, or any combination of these items to provide therapeutic change.~~

~~(B) Interactive Psychotherapy is individual psychotherapy that involves the use of play therapy equipment, physical aids/devices, language interpreter, or other mechanisms of nonverbal communication to overcome barriers to the therapeutic interaction between the clinician and the member who has not yet developed or who has lost the expressive language communication skills to explain his/her symptoms and response to treatment, requires the use of a mechanical device in order to progress in treatment, or the receptive communication skills to understand the clinician. The service may be used for adults who are hearing impaired and require the use of language interpreter.~~

~~(C) There are a total of six different compensable units of individual/interactive psychotherapy, three each for interactive and individual psychotherapy. They are Individual Insight Oriented, Behavior Modifying and/or Supportive Psychotherapy in an Outpatient Setting (20 - 30 minutes, 45 - 50 minutes, and 75 - 80 minutes), and Interactive Psychotherapy in an office or Outpatient Setting (20 - 30 minutes, 45 - 50 minutes, and 75 - 80 minutes). There is a maximum of one unit of either Individual or Interactive Psychotherapy per day. With the exception of a qualified interpreter if needed, only the member and the LBPH or AODTP should be present and the setting must protect and assure confidentiality. Ongoing assessment of the member's status and response to treatment as well as psycho-educational intervention are appropriate components of individual counseling. The counseling must be goal directed, utilizing techniques appropriate to the service plan and the member's developmental and cognitive abilities.(D) Individual/Interactive counseling must be provided by a LBHP when treatment is for a mental illness and by an AODTP when treatment is for an alcohol or other drug disorder.~~

~~(8) **Group Psychotherapy.**~~

~~(A) Group psychotherapy is a method of treating behavioral disorders using the interaction between the LBHP when treating mental illness or the AODTP when treating alcohol and other drug disorders, and two or more individuals to promote positive emotional or behavioral change. The focus of the group must be directly related to the goals and objectives in the individual member's current service plan. This service does not include social or daily living skills development as described under Individual and Group Psychosocial Rehabilitation Services, or Alcohol and/or Substance Abuse Services Skills Development.~~

~~(B) Group Psychotherapy must take place in a confidential setting limited to the LBHP or the AODTP conducting the service, an assistant or co-therapist, if desired, and the group psychotherapy participants. Group Psychotherapy is limited to a total of eight adult individuals except when the individuals are residents of an ICF/MR where the maximum group size is six. For all children under the age of 18, the total group size is limited to six. A maximum of three units per day per member are allowed. Individual or group breaks will be discounted from the overall time and are not required to be noted separately. The individual member's behavior, the size of the group, and the focus of the group must be included in each member's medical record. As other members' personal health information cannot be included, the agency may keep a separate group log which contains detailed data on the group's attendees. A group may not consist solely of related individuals.~~

~~(C) Group psychotherapy will be provided by a LBHP when treatment is for a mental illness and by~~

~~an AODTP when treatment is for an alcohol or other drug disorder.~~

~~(9)~~ ~~**Family Psychotherapy.**~~

~~(A) Family Psychotherapy is a face-to-face psychotherapeutic interaction between a LBHP or an AODTP and the member's family, guardian, and/or support system. It is typically inclusive of the identified member, but may be performed if indicated without the member's presence. When the member is an adult, his/her permission must be obtained in writing. Family psychotherapy must be provided for the direct benefit of the SoonerCare member to assist him/her in achieving his/her established treatment goals and objectives and it must take place in a confidential setting. This service may include the Evidence Based Practice titled Family Psychoeducation.~~

~~(B) A maximum of three units of Family Psychotherapy are allowed per day per member/family. Family Psychotherapy must be provided by a LBHP when treatment is for a mental illness and by an AODTP when treatment is for an alcohol or other drug disorder.~~

~~(10)~~ ~~**Psychiatric Social Rehabilitation Services (group).**~~

~~(A) Psychiatric Social Rehabilitation Services (PSR) are behavioral health remedial services which are necessary to improve the member's ability to function in the community. They are performed to improve the skills and abilities of members to live interdependently in the community, improve self care and social skills, and promote lifestyle change and recovery practices. This service may include the Evidence Based Practice of Illness, Management, and Recovery. This service is generally performed with only the members, but may include a member and the member's family/support system group that focuses on the member's diagnosis, management, and recovery based curriculum. This service may take the form of a work units component in a General PSR program certified through the ODMHSAS. PSR services must be reflected by documentation (daily or weekly summary notes) in the member's records, and must include the following:~~

~~(i) date;~~

~~(ii) start and stop time(s) for each day of service;~~

~~(iii) signature of the primary rehabilitation clinician;~~

~~(iv) credentials of the primary rehabilitation clinician;~~

~~(v) specific goal(s) and/or objectives addressed (these must be identified on service plan);~~

~~(vi) type of skills training provided;~~

~~(vii) progress made toward goals and objectives;~~

~~(viii) member's report of satisfaction with staff intervention; and~~

~~(ix) any new needed supports identified during service.~~

~~(B) Compensable Psychiatric Rehabilitation Services are provided to members who have the ability to benefit from the service. The services performed must have a purpose that directly relates to the goals and objectives of the member's current service plan. A member who at the time of service is not able to cognitively benefit from the treatment due to active hallucinations, substance use, or other impairments is not suitable for this service.~~

~~(C) Travel time to and from PSR treatment is not compensable. Breaks, lunchtime and times when the member is unable or unwilling to participate are not compensable and must be deducted from the overall billed time. The minimum staffing ratio is fourteen members for each PSRS, AODTP, or LBHP for adults and eight to one for children under the age of eighteen. Countable professional staff must be appropriately trained in a recognized behavioral/management intervention program such as MANDT or CAPE or trauma informed methodology. In order to develop and improve the member's community and interpersonal functioning and self care abilities, rehabilitation may take place in settings away from the outpatient behavioral health agency site. When this occurs, the PSRS, AODTP, or LBHP must be present and interacting, teaching, or supporting the defined learning objectives of the member for the entire claimed time. The service is a fifteen minute time frame and may be billed up to a maximum of 24 units per day for adults and 16 units per day for children. The rate of compensation for this service includes the cost of providing transportation for members who receive this service, but do not have their own transportation or do not have other support persons able to provide or who are responsible for the transportation needs. Residents of ICF/MR facilities and children receiving RBMS in a group home or therapeutic Foster Home are not eligible for this service, unless prior approved by OHCA or its designated agent.~~

~~(D) A PSRS, AODTP, or LBHP may perform group psychiatric social rehabilitation services, using a treatment curriculum approved by a LBHP.~~

~~(11)~~ ~~**Psychiatric Social Rehabilitation Services (individual).**~~

~~(A) Psychiatric Social Rehabilitation (PSR) Services (individual) is performed for the same purposes and under the same description and requirements as Psychosocial Rehabilitation Services (group) [Refer to paragraph (10) of this subsection]. The service is generally performed with only the member present, but may include the member's family or support system in order to educate them about the rehabilitative activities, interventions, goals and objectives. This service may include the Evidence Based Practice of Illness, Management, and Recovery.~~

~~(B) A PSRS, AODTP, or LBHP must provide this service. Residents of ICF/MR facilities and children receiving RBMS in a group home or therapeutic Foster Home are not eligible for this service, unless prior approved by OHCA or its designated agent. This billing unit is fifteen minutes and no more than six units per day are compensable. Children under an ODMHSAS Systems of Care program may be prior authorized additional units as part of an intensive transition period.~~

~~(12) **Assessment/Evaluation testing.**~~

~~(A) Assessment/Evaluation testing is provided by a clinician utilizing tests selected from currently accepted assessment test batteries. Test results must be reflected in the Mental Health, Substance Abuse, or Integrated Services plan. The medical record must clearly document the need for the testing and what the testing is expected to achieve.~~

~~(B) Assessment/Evaluation testing will be provided by a psychologist, certified psychometrist, psychological technician of a psychologist or a LBHP. For assessment conducted in a school setting, the Oklahoma State Department of Education requires that a licensed supervisor sign the assessment.~~

~~(13) **Alcohol and/or Substance Abuse Services, Skills Development (group).**~~

~~(A) Alcohol and/or Substance Abuse Services, Skills Development (group) consists of the therapeutic education of members regarding their alcohol and other drugs (AOD) addiction or disorder. The service may also involve teaching skills to assist the individual in how to live independently in the community, improve self-care and social skills and promote and support recovery. The services performed must have a purpose that directly relates to the goals and objectives of the member's current service plan. A member who at the time of service is not able to cognitively benefit from the treatment due to active hallucinations, substance use, or other impairments is not suitable for this service. This service is generally performed with only the members, but may include a member and member family/support system group that focuses on the member's diagnosis, management, and recovery based curriculum.~~

~~(B) Travel time to and from Alcohol and/or Substance Abuse Services, Skills Development is not compensable. Breaks, lunchtime and times when the member is unable or unwilling to participate are not compensable and must be deducted from the overall billed time. The minimum staffing ratio is fourteen members for each PSRS, LBHP, or AODTP for adults and eight to one for children under the age of eighteen. This service may be performed by an AODTP, LBHP, or a PSRS. In order to develop and improve the member's community and interpersonal functioning and self-care abilities, services may take place in settings away from the agency site. When this occurs, the AODTP, LBHP, or PSRS must be present and interacting, teaching, or supporting the defined learning objectives of the member for the entire claimed time. The service is a fifteen minute time frame and may be billed up to a maximum of 24 units per day for adults and 16 units per day for children. The rate of compensation for this service includes the cost of providing transportation for members who receive this service, but do not have their own transportation or do not have other support persons able to provide or who are responsible for the transportation needs. The OHCA transportation program will arrange for transportation for those who require specialized transportation equipment. Residents of ICF/MR facilities and children receiving RBMS in a group home or therapeutic Foster Home are not eligible for this service, unless prior approved by OHCA or its designated agent.~~

~~(C) Alcohol and/or Substance Abuse Services, Skills Development are provided utilizing a treatment curriculum approved by an AODTP or LBHP.~~

~~(14) **Alcohol and/or Substance Abuse Services, Skills Development (individual).**~~

~~(A) Alcohol and/or Substance Abuse Services, Skills Development (individual) is performed for the same purposes and under the same description and requirements as Alcohol and/or Substance Abuse Services, Skills Development (group) [Refer to paragraph (13) of this subsection]. It is generally performed with only the member present, but may include the member's family or support system in order to educate them about the rehabilitative activities, interventions, goals and objectives.~~

~~(B) An AODTP, LBHP, or PSRS must provide this service. Residents of ICF/MR facilities and children receiving RBMS in a group home or therapeutic Foster Home are not eligible for this service, unless prior approved by OHCA or its designated agent. This billing unit is fifteen minutes and no more than six units per day are compensable.~~

~~(15) **Medication Training and Support.**~~

~~(A) Medication Training and Support is a documented review and educational session by a registered nurse, or physician assistant focusing on a member's response to medication and compliance with the medication regimen. The review must include an assessment of medication compliance and medication side effects. Vital signs must be taken including pulse, blood pressure and respiration and documented within the progress notes. A physician is not required to be present, but must be available for consult. Medication Training and Support is designed to maintain the member on the appropriate level of the least intrusive medications, encourage normalization and prevent hospitalization. Medication Training and Support may not be billed for SoonerCare member who reside in ICF/MR facilities. One unit is allowed per month per patient without prior authorization.~~

~~(B) Medication Training and Support must be provided by a licensed registered nurse, or a physician assistant as a direct service under the supervision of a physician.~~

~~(16) **Crisis Intervention Services.**~~

~~(A) Crisis Intervention Services are for the purpose of responding to acute behavioral or emotional dysfunction as evidenced by psychotic, suicidal, homicidal or severe psychiatric distress. The crisis situation including the symptoms exhibited and the resulting intervention or recommendations must be clearly documented. Crisis Intervention Services are not compensable for SoonerCare members who reside in ICF/MR facilities, or who receive RBMS in a group home or Therapeutic Foster home, or members who, while in attendance for other behavioral health services, experience acute behavioral or emotional dysfunction. The unit is a fifteen minute unit with a maximum of eight units per month; established mobile crisis response teams can bill a maximum of sixteen units per month, and 40 units each 12 months per member.~~

~~(B) Crisis Intervention Services must be provided by a LBHP.~~

~~(17) **Crisis Intervention Services (facility based stabilization).** Crisis Intervention Services (facility based stabilization) are emergency psychiatric and substance abuse services to resolve crisis situations. The services provided are emergency stabilization, which includes a protected environment, chemotherapy, detoxification, individual and group treatment, and medical assessment. Crisis Intervention Services (facility based stabilization) are provided under the supervision of a physician aided by a licensed nurse, and also include LBHPs for the provision of group and individual treatments. A physician must be available. This service is limited to providers who contract with or are operated by the ODMHSAS to provide this service within the overall behavioral health service delivery system. Crisis Intervention Services (facility based stabilization) are compensable for child and adult SoonerCare member. The unit of service is per hour. Providers of this service must meet the requirements delineated in the Oklahoma Administrative Code. Children's facility based stabilization (0-18 years of age) requires prior authorization.~~

~~(18) **Program of Assertive Community Treatment (PACT) Services.**~~

~~(A) The reimbursement for PACT services will end effective June 30, 2008.~~

~~(B) Program of Assertive Community Treatment (PACT) Services are provided through the Oklahoma Department of Mental Health and Substance Abuse Services and delivered within an assertive community based approach to provide treatment, rehabilitation, and essential behavioral health supports on a continuous basis to individuals 18 years of age or older with serious mental illness with a self contained multi-disciplinary team. The team uses an integrated service approach to merge essential clinical and rehabilitative functions and staff expertise. This level of service is to be provided only for persons most clearly in need of intensive ongoing services. Services must satisfy all statutory required program elements as articulated in the Oklahoma Administrative Code 450:55. At a minimum, the services must include:~~

~~(i) Assessment and evaluation;~~

~~(ii) Treatment planning;~~

~~(iii) Crisis intervention to cover psychiatric crisis and drug and alcohol crisis intervention;~~

~~(iv) Symptom assessment, management, and individual supportive psychotherapy;~~

~~(v) Medication evaluation and management, administration, monitoring and documentation;~~

~~(vi) Rehabilitation services;~~

~~(vii) Substance abuse treatment services;~~

~~(viii) Activities of daily living training and supports;~~

~~(ix) Social, interpersonal relationship, and related skills training; and,~~

~~(x) Case management services.~~

~~(C) Providers of PACT services are specific teams within an established organization and must be operated by or contracted with and must be certified by the ODMHSAS in accordance with 43A O.S. 319 and Oklahoma Administrative Code 450:55. SoonerCare members who are enrolled in this service may not receive other outpatient behavioral health services except for Crisis Intervention Services (facility based stabilization).~~

~~(19) **Behavioral Health Aide.** This service is limited to children with serious emotional disturbance who are in an ODMHSAS contracted systems of care community based treatment program, or are under OKDHS or OJA custody residing within a RBMS level of care, who need intervention and support in their living environment to achieve or maintain stable successful treatment outcomes. Behavioral Health Aides provide behavior management and redirection and behavioral and life skills remedial training. The behavioral aide also provides monitoring and observation of the child's emotional/behavioral status and responses, providing interventions, support and redirection when needed. Training is generally focused on behavioral, interpersonal, communication, self help, safety and daily living skills.~~

~~(A) Behavioral Health Aides must have completed 60 hours or equivalent of college credit or may substitute one year of relevant employment and/or responsibility in the care of children with complex emotional needs for up to two years of college experience, and:~~

~~(i) must have successfully completed the specialized training and education curriculum provided by the ODMHSAS; and~~

~~(ii) must be supervised by a bachelor's level individual with a minimum of two years case management experience. Treatment plans must be overseen and approved by a LBHP; and~~

~~(iii) function under the general direction of the established systems of care team and the current treatment plan.~~

~~(B) These services must be prior authorized by OHCA (or its designated agent). The Behavioral Health Aide cannot bill for more than one individual during the same time period.~~

~~(20) **Family Support and Training.** Family Support and Training is designed to benefit the SoonerCare eligible child experiencing a serious emotional disturbance who is in an ODMHSAS contracted systems of care community based treatment program, are diagnosed with a pervasive developmental disorder, or are under OKDHS or OJA custody residing within a RBMS level of care and who without these services would require psychiatric hospitalization. This service provides the training and support necessary to ensure engagement and active participation of the family in the treatment planning process and with the ongoing implementation and reinforcement of skills learned throughout the treatment process. Child Training is provided to family members to increase their ability to provide a safe and supportive environment in the home and community for the child. This involves assisting the family in the acquisition of knowledge and skills necessary to understand and address the specific needs of the child in relation to their mental illness and treatment; development and enhancement of the families specific problem solving skills, coping mechanisms, and strategies for the child's symptom/behavior management; assisting the family in understanding various requirements, such as the crisis plan and plan of care process; training on the child's medications or diagnoses; interpreting choice offered by service providers; and assisting with understanding policies, procedures and regulations that impact the child with mental illness while living in the community. Parent Support ensures the engagement and active participation of the family in the treatment planning process and guides families toward taking a proactive role in their child's treatment. Parent Training is assisting the family with the acquisition of the skills and knowledge necessary to facilitate an awareness of their child's needs and the development and enhancement of the family's specific problem solving skills, coping mechanisms, and strategies for the child's symptom/behavior management. Services are goal directed as identified in the child's individualized plan of care and provided under the direction of a child and family treatment team and are intended to support the family with maintaining the child in the home and community. For the purposes of this service, "family" is defined as the persons who live with or provide care to a person served and may include a parent, spouse, children, relatives, foster family, or in laws. "Family" does not include individuals who are employed to care for the member.~~

~~(A) The family support and training worker must meet the following criteria:~~

~~(i) have a high school diploma or equivalent;~~

~~(ii) be 21 years of age and have successful experience as a family member of a child or youth with serious emotional disturbance, or a minimum of 2 years experience working with children with serious emotional disturbance or be equivalently qualified by education in the human services field or a combination of work experience and education with one year of education substituting for one year of experience (preference is given to parents or care givers of child with SED);~~

~~(iii) successful completion of Family Support Training according to a curriculum approved by the ODMHSAS prior to providing the service;~~

~~(iv) pass OSBI and OKDHS child abuse check as well as adult abuse registry and motor vehicle screens; and~~

~~(v) receive ongoing and regular supervision by a person meeting the qualifications of a LBHP. A LBHP must be available at all times to provide back up, support, and/or consultation.~~

~~(B) These services may be retrospectively reviewed by OHCA or its designated agent.~~

~~(21) **Community Recovery Support.** Recovery Support is a service delivery role in the ODMHSAS public and contracted provider system throughout the mental health care system where the provider understands what creates recovery and how to support environments conducive of recovery. The role is not interchangeable with traditional staff that usually work from the perspective of their training and/or their status as a licensed mental health provider; rather, this provider works from the perspective of their experiential expertise and specialized credential training. They lend unique insight into mental illness and what makes recovery possible because they are in recovery. Each provider must successfully complete over 40 hours of specialized training, demonstrate integration of newly acquired skills and pass a written exam in order to become credentialed. A code of ethics and continuing education opportunities are components which inform the continued professional development of this provider.~~

~~(A) The community/recovery support worker must meet the following criteria:~~

~~(i) High School diploma or GED;~~

~~(ii) minimum one year participation in local or national member advocacy or knowledge in the area of mental health recovery;~~

~~(iii) current or former member of mental health services; and~~

~~(iv) successful completion of the ODMHSAS Recovery Support Provider Training and Test to be credentialed.~~

~~(B) These services may be retrospectively reviewed by OHCA or its designated agent.~~

~~(C) Example of work performed:~~

~~(i) Utilizing their knowledge, skills and abilities will:~~

~~(I) teach and mentor the value of every individual's recovery experience;~~

~~(II) model effective coping techniques and self-help strategies;~~

~~(III) assist members in articulating personal goals for recovery; and~~

~~(IV) assist members in determining the objectives needed to reach his/her recovery goals.~~

~~(ii) Utilizing ongoing training may:~~

~~(I) proactively engage members and possess communication skills/ability to transfer new concepts, ideas, and insight to others;~~

~~(II) facilitate peer support groups;~~

~~(III) assist in setting up and sustaining self-help (mutual support) groups;~~

~~(IV) support members in using a Wellness Recovery Action Plan (WRAP);~~

~~(V) assist in creating a crisis plan/Psychiatric Advanced Directive;~~

~~(VI) utilize and teach problem solving techniques with members;~~

~~(VII) teach members how to identify and combat negative self-talk and fears;~~

~~(VIII) support the vocational choices of members and assist him/her in overcoming job-related anxiety;~~

~~(IX) assist in building social skills in the community that will enhance quality of life. Support the development of natural support systems;~~

~~(X) assist other staff in identifying program and service environments that are conducive to recovery; and~~

~~(XI) attend treatment team and program development meetings to ensure the presence of the member's voice and to promote the use of self-directed recovery tools.~~

~~(iii) Possess knowledge about various mental health settings and ancillary services (i.e., Social Security, housing services, and advocacy organizations).~~

~~(iv) Maintain a working knowledge of current trends and developments in the mental health field by reading books, journals and other relevant material.~~

~~(I) attend continuing education assemblies when offered by or approved by the ODMHSAS's Office of Consumer Affairs; and~~

~~(II) develop and share recovery oriented material at member specific continuing education trainings.~~

~~(v) Serve by:~~

~~(I) providing and advocating for effective recovery oriented services;~~

~~(II) assisting members in obtaining services that suit that individual's recovery needs;~~

~~(III) informing members about community and natural supports and how to utilize these in the recovery process; and~~

~~(IV) assisting members in developing empowerment skills through self-advocacy.~~

~~(vi) Develop specific competencies which will enhance their work skills and abilities. Identified tasks include, but are not limited to:~~

~~(I) becoming a trained facilitator of Double Trouble in Recovery (DTR);~~

~~(II) becoming a trained facilitator of Wellness Recovery Action Plan (WRAP);~~

~~(III) pursuing the USPRA credential of Certified Psychiatric Rehabilitation Practitioner (CPRP).~~

~~(b) **Prior authorization and review of services requirements.**~~

~~(1) **General requirement.** All SoonerCare providers who provide outpatient behavioral health services are required to have the services they provide prior authorized by the OHCA or its designated agent. Services that do not require prior authorization are as follows:~~

~~(A) Mental Health Assessment by a Non Physician;~~

~~(B) the initial four individual or family sessions before finalization of the service plan;~~

~~(C) Mental Health Service Plan Development by a Non Physician (moderate complexity);~~

~~(D) Crisis Intervention Services; and~~

~~(E) Adult Facility Based Crisis Intervention.~~

~~(2) **Prior authorization and review of services.** The OHCA or its designated agent who performs the services identified in paragraph (1) of this subsection uses its independent medical judgment to perform both the review of services and the prior authorization of services. OHCA does retain final administrative review over both prior authorization and review of services as required by 42 CFR 431.10.~~

~~(3) **Prior authorization process.**~~

~~(A) **Definitions.** The following definitions apply to the process of applying for an outpatient behavioral health prior authorization.~~

~~(i) "**Outpatient Request for Prior Authorization**" means the form used to request the OHCA or its designated agent to approve services.~~

~~(ii) **"Authorization Number"** means the number that is assigned per member and per provider that authorizes payment after services are rendered.~~

~~(iii) **"Initial Request for Treatment"** means a request to authorize treatment for a member that has not received outpatient treatment in the last six months.~~

~~(iv) **"Extension Request"** means a request to authorize treatment for a member who has received outpatient treatment in the last six months.~~

~~(v) **"Modification of Current Authorization Request"** means a request to modify the current array or amount of services a member is receiving.~~

~~(vi) **"Correction Request"** means a request to change a prior authorization error made by the OHCA or its designated agent.~~

~~(vii) **"Provider change in demographic information notification"** means a request to change a provider's name, address, phone, and/or fax numbers, or provider identification numbers. Change in demographics will require contractual changes with OHCA. Providers should contact OHCA's Contracts Services Division for more information.~~

~~(viii) **"Status request"** means a request to ask the OHCA or its designated agent the status of a request.~~

~~(ix) **"Important notice"** means a notice that informs the provider that information is lacking regarding the approval of any prior authorization request.~~

~~(x) **"Letter of collaboration"** means an agreement between the member and two providers when a member chooses more than one provider during a course of treatment.~~

~~(B) **Process.** A provider must submit an Initial Request for Treatment, an Extension Request, a Modification of Current Authorization Request, or a Correction Request on a form provided by the OHCA or its designated agent, prior to rendering the initial services or any additional array of services, with the exception of Mental Health Assessment by a Non-Physician; the first four sessions prior to completion of the service plan; Mental Health Service Plan Development by a Non Physician (moderate complexity); and Crisis Intervention Services; and Adult Facility Based Crisis Intervention.~~

~~(i) These request forms must be fully completed including the following:~~

~~(I) pertinent demographic and identifying information;~~

~~(II) complete and current CAR or ASI unless another appropriate assessment tool is authorized by the OHCA or its designated agent;~~

~~(III) complete multi-axial, DSM diagnosis using the most current edition;~~

~~(IV) psychiatric and treatment history;~~

~~(V) service plan with goals, objectives, treatment duration; and~~

~~(VI) services requested.~~

~~(ii) The OHCA or its designated agent may also require supporting documentation for any data submitted by the provider. The request may be denied if such information is not provided within ten calendar days of notification of the Important Notice.~~

~~(iii) Failure to provide a complete request form may result in a delay in the start date of the prior authorization.~~

~~(C) **Authorization for services.**~~

~~(i) Services are authorized by the OHCA or its designated agent using independent medical judgment to perform the review of prior authorization requests to determine whether the request meets medical necessity criteria. If services are authorized, a treatment course of one to six months will be authorized. The authorization of services is based upon seven levels of care for children and six levels of care for adults. The numerically based levels of care are designed to reflect the member's acuity as each level of care, in ascending order. Additional levels of care are known as Exceptional Case, 0-36 months, ICF/MR, Recovery Maintenance/Relapse Prevention, and RBMS.~~

~~(ii) If the provider requests services beyond the initial prior authorization period, additional documentation is required in the Extension Request.~~

(b) All services are to be for the goal of improvement of functioning, independence, or well being of the member. The services and treatment plans are to be recovery focused, trauma and co-occurring specific. The member must be able to actively participate in the treatment. Active participation means that the member must have sufficient cognitive abilities, communication skills, and short-term memory to derive a reasonable benefit from the treatment.

(c) All outpatient BH services will require prior authorization through OHCA, or its designated agent, following established medical necessity criteria. Providers are required to follow these criteria and guidelines under the OHCA BH Provider Billing Manual. The OHCA or its designated agent who performs the services identified in paragraph (1) of this subsection uses its independent medical judgment to perform both the review of services and the prior authorization of services. OHCA does retain final administrative review over both prior authorization and review of services as required by 42 CFR 431.10.

(d) Non prior authorized services will not be SoonerCare compensable with the exception of the initial 1-4 sessions (to be used prior to completion of the Service Plan), Assessment Service Plan (moderate complexity), Crisis Intervention, and Adult Facility Based Crisis Stabilization.

317:30-5-241.1. Screening, assessment and service plan

All providers must comply with the requirements as set forth in the OHCA BH Provider Billing Manual.

(1) **Screening.**

(A) **Definition.** Screening is for the purpose of determining whether the member meets basic medical necessity and need for further BH assessment and possible treatment services.

(B) **Qualified professional.** Screenings can be performed by any credentialed staff members as listed under OAC 317:30-5-240.3.

(C) **Target population.** This service is compensable only on behalf of a member who is under a PACT program.

(2) **Assessment.**

(A) **Definition.** Gathering and assessment of historical and current information which includes

face-to-face contact with the person and/or the person's family or other informants, or group of persons resulting in a written summary report and recommendations. All agencies must assess the medical necessity of each individual to determine the appropriate level of care.

(B) **Qualified professional.** This service is performed by an LBHP or AODTP for AOD.

(C) **Time requirements.** The minimum face-to-face time spent in assessment session(s) with the member and others as identified previously in paragraph (1) of this subsection for a low complexity Behavioral Health Assessment by a Non-Physician is one and one half hours. For a moderate complexity, it is two hours or more.

(D) **Target population and limitations.** This service is compensable on behalf of a member who is seeking services for the first time from the contracted agency. This service is not compensable if the member has previously received or is currently receiving services from the agency, unless there has been a gap in service of more than six months and it has been more than one year since the previous assessment.

(3) **Behavioral Health Services Plan Development.**

(A) **Definition.** The Behavioral Health Service Plan is developed based on information obtained in the assessment and includes the evaluation of all pertinent information by the practitioners and the member. It includes a discharge plan. It is a process whereby an individualized rehabilitation plan is developed that addresses the member's strengths, functional assets, weaknesses or liabilities, treatment goals, objectives and methodologies that are specific and time limited, and defines the services to be performed by the practitioners and others who comprise the treatment team. BH Service Plan Development is performed with the direct active participation of the member and a member support person or advocate if requested by the member. In the case of children under the age of 16, it is performed with the participation of the parent or guardian and the child as age and developmentally appropriate, and must address school and educational concerns and assisting the family in caring for the child in the least restrictive level of care. For adults, it is focused on recovery and achieving maximum community interaction and involvement including goals for employment, independent living, volunteer work, or training.

(B) **Qualified professional.** This service is performed by an LBHP or AODTP for AOD.

(C) **Time requirements.** Service Plan updates are required every six months during active treatment. Updates can be conducted whenever needed as determined by the provider and member.

(4) **Assessment/Evaluation testing.**

(A) **Definition.** Assessment/Evaluation testing is provided by a clinician utilizing tests selected from currently accepted assessment test batteries. Test results must be reflected in the Service Plan. The medical record must clearly document the need for the testing and what the testing is expected to achieve.

(B) **Qualified professionals.** Assessment/Evaluation testing will be provided by a psychologist, certified psychometrist, psychological technician of a psychologist or a LBHP. For assessments conducted in a school setting, the Oklahoma State Department of Education requires that a licensed supervisor sign the assessment.

317:30-5-241.2. Psychotherapy

(a) **Individual/Interactive Psychotherapy.**

(1) **Definition.** Individual Psychotherapy is a face-to-face treatment for mental illnesses and behavioral disturbances, in which the clinician, through definitive therapeutic communication, attempts to alleviate the emotional disturbances, reverse or change maladaptive patterns of behavior and encourage growth and development. Insight oriented, behavior modifying and/or supportive psychotherapy refers to the development of insight of affective understanding, the use of behavior modification techniques, the use of supportive interactions, the use of cognitive discussion of reality, or any combination of these items to provide therapeutic change.

(2) **Definition.** Interactive Psychotherapy is individual psychotherapy that involves the use of play therapy equipment, physical aids/devices, language interpreter, or other mechanisms of nonverbal communication to overcome barriers to the therapeutic interaction between the clinician and the member who has not yet developed or who has lost the expressive language communication skills to explain his/her symptoms and response to treatment, requires the use of a mechanical device in order to progress in treatment, or the receptive communication skills to understand the clinician. The service may be used for adults who are hearing impaired and require the use of language interpreter.

(3) **Qualified professionals.** With the exception of a qualified interpreter if needed, only the member and the LBPH or AODTP should be present and the setting must protect and assure confidentiality. Ongoing assessment of the member's status and response to treatment as well as psycho-educational intervention are appropriate components of individual counseling. The counseling must be goal directed, utilizing techniques appropriate to the service plan and the member's developmental and cognitive abilities. Individual/Interactive counseling must be provided by a LBHP when treatment is for a mental illness and by an AODTP when treatment is for an alcohol or other drug disorder.

(4) **Limitations.** A maximum of 6 units per day per member is compensable.

(b) **Group Psychotherapy.**

(1) **Definition.** Group psychotherapy is a method of treating behavioral disorders using the interaction between the LBHP when treating mental illness or the AODTP when treating alcohol and other drug disorders, and two

or more individuals to promote positive emotional or behavioral change. The focus of the group must be directly related to the goals and objectives in the individual member's current service plan. This service does not include social or daily living skills development as described under Psychiatric-social Rehabilitation Services.

(2) **Group sizes.** Group Psychotherapy is limited to a total of eight adult (18 and over) individuals except when the individuals are residents of an ICF/MR where the maximum group size is six. For all children under the age of 18, the total group size is limited to six.

(3) **Multi-family and conjoint family therapy.** Sessions are limited to a maximum of eight families/units. Billing is allowed once per family unit, though units may be divided amongst family members.

(4) **Qualified professionals.** Group psychotherapy will be provided by a LBHP when treatment is for a mental illness and by an AODTP when treatment is for an alcohol or other drug disorder. Group Psychotherapy must take place in a confidential setting limited to the LBHP or the AODTP conducting the service, an assistant or co-therapist, if desired, and the group psychotherapy participants.

(5) **Limitations.** A maximum of 12 units per day per member is compensable.

(c) **Family Psychotherapy.**

(1) **Definition.** Family Psychotherapy is a face-to-face psychotherapeutic interaction between a LBHP or an AODTP and the member's family, guardian, and/or support system. It is typically inclusive of the identified member, but may be performed if indicated without the member's presence. When the member is an adult, his/her permission must be obtained in writing. Family psychotherapy must be provided for the direct benefit of the SoonerCare member to assist him/her in achieving his/her established treatment goals and objectives and it must take place in a confidential setting. This service may include the Evidence Based Practice titled Family Psychoeducation.

(2) **Qualified professionals.** Family Psychotherapy must be provided by a LBHP when treatment is for a mental illness and by an AODTP when treatment is for an alcohol or other drug disorder.

(3) **Limitations.** A maximum of 12 units per day per member/family unit is compensable.

(d) **Multi-Systemic Therapy (MST).**

(1) **Definition.** MST intensive outpatient program services are limited to children within an OJA MST treatment program which provides an intensive, family and community-based treatment targeting specific BH disorders in children with SED who exhibit chronic, aggressive, antisocial, and/or substance abusing behaviors, and are at risk for out of home placement. Case loads are kept low due to the intensity of the services provided.

(2) **Qualified professionals.** Masters level professionals who work with a team that may include bachelor level staff.

317:30-5-241.3. Behavioral Health Rehabilitation (BHR) services

(a) **Definition.** BHRS are behavioral health remedial services which are necessary to improve the member's ability to function in the community. They are performed to improve the skills and abilities of members to live interdependently in the community, improve self-care and social skills, and promote lifestyle change and recovery practices. This service may include the Evidence Based Practice of Illness, Management, and Recovery.

(1) **Clinical restrictions.**

(A) Individual. Only the BHRS and member are present for the session.

(B) Group. This service is generally performed with only the members, but may include a member and the member's family/support system group that focuses on the member's diagnosis, management, and recovery based curriculum.

(2) **Qualified providers.** A BHRS, AODTP, or LBHP may perform BHR, following a treatment curriculum approved by a LBHP or AODTP for AOD. Staff must be appropriately trained in a recognized behavioral/management intervention program such as MANDT or CAPE or trauma informed methodology.

(3) **Group sizes.** The minimum staffing ratio is fourteen members for each BHRS, AODTP, or LBHP for adults and eight to one for children under the age of eighteen.

(4) **Limitations.**

(A) **Transportation.** Travel time to and from BHR treatment is not compensable.

(B) **Time.** Breaks, lunchtime and times when the member is unable or unwilling to participate are not compensable and must be deducted from the overall billed time.

(C) **Location.** In order to develop and improve the member's community and interpersonal functioning and self care abilities, rehabilitation may take place in settings away from the outpatient behavioral health agency site. When this occurs, the BHRS, AODTP, or LBHP must be present and interacting, teaching, or supporting the defined learning objectives of the member for the entire claimed time.

(D) **Billing.** Residents of ICF/MR facilities and children receiving RBMS in a group home or therapeutic foster home are not eligible for this service, unless prior approved by OHCA or its designated agent.

(i) **Group.** The maximum is 24 units per day for adults and 16 units per day for children.

(ii) **Individual.** The maximum is six units per day. Children under an ODMHSAS Systems of Care program may be prior authorized additional units as part of an intensive transition period.

(b) **Medication training and support.**

(1) **Definition.** Medication Training and Support is a documented review and educational session by a registered nurse, or physician assistant focusing on a member's

response to medication and compliance with the medication regimen. The review must include an assessment of medication compliance and medication side effects. Vital signs must be taken including pulse, blood pressure and respiration and documented within the progress notes. A physician is not required to be present, but must be available for consult. Medication Training and Support is designed to maintain the member on the appropriate level of the least intrusive medications, encourage normalization and prevent hospitalization.

(2) **Limitations.**

(A) Medication Training and Support may not be billed for SoonerCare members who reside in ICF/MR facilities.

(B) One unit is allowed per month per patient without prior authorization.

(3) **Qualified professionals.** Must be provided by a licensed registered nurse, or a physician assistant as a direct service under the supervision of a physician.

317:30-5-241.4. Crisis Intervention

(a) **Onsite and Mobile Crisis Intervention Services (CIS).**

(1) **Definition.** Crisis Intervention Services are for the purpose of responding to acute behavioral or emotional dysfunction as evidenced by psychotic, suicidal, homicidal severe psychiatric distress, and/or danger of AOD relapse. The crisis situation including the symptoms exhibited and the resulting intervention or recommendations must be clearly documented.

(2) **Limitations.** Crisis Intervention Services are not compensable for SoonerCare members who reside in ICF/MR facilities, or who receive RBMS in a group home or Therapeutic Foster Home. CIS is also not compensable for members who experience acute behavioral or emotional dysfunction while in attendance for other behavioral health services, unless there is a documented attempt of placement in a higher level of care. The maximum is eight units per month; established mobile crisis response teams can bill a maximum of sixteen units per month, and 40 units each 12 months per member.

(3) **Qualified professionals.** Services must be provided by a LBHP.

(b) **Facility Based Crisis Stabilization (FBCS).** FBCS services are emergency psychiatric and substance abuse services aimed at resolving crisis situations. The services provided are emergency stabilization, which includes a protected environment, chemotherapy, detoxification, individual and group treatment, and medical assessment.

(1) **Qualified professionals.** FBCS services are provided under the supervision of a physician aided by a licensed nurse, and also include LBHPs for the provision of group and individual treatments. A physician must be available. This service is limited to providers who contract with or are operated by the ODMHSAS to provide this service within the overall behavioral health service delivery system.

(2) **Limitations.** The unit of service is per hour. Providers of this service must meet the requirements delineated in the OAC 450:23.

317:30-5-241.5. Support services

(a) **Program of Assertive Community Treatment (PACT) Services.**

(1) **Definition.** PACT is provided by an interdisciplinary team that ensures service availability 24 hours a day, seven days a week and is prepared to carry out a full range of treatment functions wherever and whenever needed. An individual is referred to the PACT team service when it has been determined that his/her needs are so pervasive and/or unpredictable that it is unlikely that they can be met effectively by other combinations of available community services, or in circumstances where other levels of outpatient care have not been successful to sustain stability in the community.

(2) **Target population.** Individuals 18 years of age or older with serious and persistent mental illness and co-occurring disorders.

(3) **Qualified professionals.** Providers of PACT services are specific teams within an established organization and must be operated by or contracted with and certified by the ODMHSAS in accordance with 43A O.S. 319 and OAC 450:55.

(4) **Limitations.** A maximum of 105 hours per member per year in the aggregate. SoonerCare members who are enrolled in this service may not receive other outpatient behavioral health services except for FBCS and CM.

(b) **Behavioral Health Aide Services.**

(1) **Definition.** Behavioral Health Aides provide behavior management and redirection and behavioral and life skills remedial training. The behavioral aide also provides monitoring and observation of the child's emotional/behavioral status and responses, providing interventions, support and redirection when needed. Training is generally focused on behavioral, interpersonal, communication, self help, safety and daily living skills.

(2) **Target population.** This service is limited to children with serious emotional disturbance who are in an ODMHSAS contracted systems of care community based treatment program, or are under OKDHS or OJA custody residing within a RBMS level of care, who need intervention and support in their living environment to achieve or maintain stable successful treatment outcomes.

(3) **Qualified professionals.** Behavioral Health Aides must be certified through ODMHSAS.

(4) **Limitations.** The Behavioral Health Aide cannot bill for more than one individual during the same time period.

(c) **Family Support and Training.**

(1) **Definition.** This service provides the training and support necessary to ensure engagement and active participation of the family in the treatment planning process and with the ongoing implementation and reinforcement of skills learned throughout the treatment process. Child

Training is provided to family members to increase their ability to provide a safe and supportive environment in the home and community for the child. Parent Support ensures the engagement and active participation of the family in the treatment planning process and guides families toward taking a proactive role in their child's treatment. Parent Training is assisting the family with the acquisition of the skills and knowledge necessary to facilitate an awareness of their child's needs and the development and enhancement of the family's specific problem-solving skills, coping mechanisms, and strategies for the child's symptom/behavior management.

(2) **Target population.** Family Support and Training is designed to benefit the SoonerCare eligible child experiencing a serious emotional disturbance who is in an ODMHSAS contracted systems of care community based treatment program, are diagnosed with a pervasive developmental disorder, or are under OKDHS or OJA custody residing within a RBMS level of care and who without these services would require psychiatric hospitalization.

(3) **Qualified professionals.** Family Support Providers (FSP) must be certified through ODMHSAS.

(4) **Limitations.** The FSP cannot bill for more than one individual during the same time period.

(d) **Community Recovery Support.**

(1) **Definition.** CRS (or Peer Recovery Support) services are an EBP model of care which consists of a qualified peer support provider (RSS) who assists individuals with their recovery from behavioral health disorders.

(2) **Target population.** Adults 18 and over with SMI and/or AOD disorder(s).

(3) **Qualified professionals.** Recovery Support Specialist (RSS) who is certified through ODMHSAS.

(4) **Limitations.** The RSS cannot bill for more than one individual during the same time period.

317:30-5-244. Individuals eligible for Part B of Medicare

Outpatient Behavioral Health services provided to Medicare eligible ~~recipients~~ members ~~should be~~ are filed directly with the fiscal agent.

317:30-5-248. Documentation of records

All outpatient behavioral health services must be reflected by documentation in the ~~member~~ member's records.

(1) For ~~Mental~~ Behavioral Health and Alcohol and Drug Assessments (see OAC 317:30-5-241), no progress ~~note~~ notes are required.

(2) For ~~Mental~~ Behavioral Health Services Plan and Alcohol and/or Substance Abuse Services, Treatment Plan (see OAC 317:30-5-241), no progress ~~note~~ notes are required.

(3) Treatment Services must be documented by progress notes.

(A) Progress notes shall chronologically describe the services provided, the member's response to the services provided and the member's progress, or lack ~~or~~ of, in treatment and must include the following:

(i) Date;

(ii) Person(s) to whom services were rendered, must be HIPAA compliant if other individuals in session are mentioned;

~~(iii) SoonerCare number for member;~~

(~~iv~~ iii) Start and stop time for each timed treatment session or service;

(~~v~~ iv) Original signature of the therapist/service provider; in circumstances where it is necessary to fax a service plan to someone for review and then have them fax back their signature, this is acceptable; however, the provider must obtain the original signature for the clinical file within 30 days and no stamped or Xeroxed signatures are allowed. Electronic signatures are acceptable following OAC 317:30-3-4.1 and 317:30-3-15;

(~~vi~~v) Credentials of therapist/service provider;

(~~vii~~vi) Specific treatment plan problems(s), goals and/or objectives addressed;

(~~viii~~vii) Services provided to address need(s), goals and/or objectives;

(~~ix~~viii) Progress or barriers to progress made in treatment as it relates to the goals and/or objectives;

(~~x~~ix) Member (and family, when applicable) response to the session or intervention; (what did the member do in session? What did the provider do in session?);

(~~xi~~x) Any new need(s), goals and/or objectives identified during the session or service.

(4) In addition to the items listed in (1) of this subsection:

(A) Crisis Intervention Service notes must also include a detailed description of the crisis and level of functioning assessment;

(B) a list of participants for each Group rehabilitative or counseling session and facilitating ~~PSRS~~ BHRS, LBHP, or AODTP must be maintained; and

(C) for medication training and support, vital signs must be recorded in the progress note, but are not required on the ~~mental~~ behavioral health services plan;

(5) Progress notes for intensive outpatient ~~mental~~ behavioral health, substance abuse, or integrated BHR programs may be in the form of daily ~~summary~~ or weekly summary notes and must include the following:

(A) Curriculum sessions attended each day and/or dates attended during the week;

(B) Start and stop times for each day attended;

(C) Specific goal(s) and objectives addressed during the week;

(D) Type of Skills Training provided each day and/or during the week;

(E) Member satisfaction with staff intervention(s);

(F) Progress, or barriers to, made toward goals, objectives;

(G) New goal(s) or objective(s) identified;

(H) Signature of the lead ~~PSRS~~ BHRS; and

(I) Credentials of the lead ~~PSRS~~ BHRS.

(6) Concurrent documentation between the clinician and member can be billed as part of the treatment session time, but must be documented clearly in the progress notes and signed by the member.

317:30-5-249. Non-covered services

In addition to the general program exclusions [OAC 317:30-5-2(a)(2)] the following are excluded from coverage. Work and education services:

(1) Talking about the past and current and future employment goals, going to various work sites to explore the world of work, and assisting client in identifying the pros and cons of working.

(2) Development of an ongoing educational and employment rehabilitation plan to help each individual establish job specific skills and credentials necessary to achieve ongoing employment. Psycho-social skills training however would be covered.

(3) Work/school-specific supportive services, such as assistance with securing of appropriate clothing, wake-up calls, addressing transportation issues, etc. These would be billed as Case Management following 317:30-5-285 through 317:30-5-285.

(4) Job specific supports such as teaching/coaching a job task.

[OAR Docket #09-381; filed 3-17-09]

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

[OAR Docket #09-380]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 5. Individual Providers and Specialties
Part 85. ADvantage Program Waiver Services
317:30-5-761. [AMENDED]
317:30-5-763.1. [AMENDED]
Part 95. Agency Personal Care Services
317:30-5-950. [AMENDED]
317:30-5-952. [AMENDED]
(Reference APA WF # 09-02A)
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 440.180; 42 CFR 440.167
DATES:
Adoption:
February 12, 2009
Approved by Governor:
March 9, 2009
Effective:
April 1, 2009
Expiration:
Effective through July 14, 2010, 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 reflect the discontinuance of the administrative agent contract for the ADvantage Program between the Long Term Care Authority of Tulsa and the Oklahoma Department of Human Services. Formerly, the Oklahoma Department of Human Services contracted with the Long Term Care Authority of Tulsa to perform certain administrative functions related to the ADvantage Waiver. The Aging Services Division of the Oklahoma Department of Human Services has assumed those responsibilities and rule revisions are need to correctly reflect the change.
ANALYSIS:
Rules are revised to remove references to the Long Term Care Authority as the Administrative Agent of the ADvantage Program. The Oklahoma Department of Human Services has discontinued contracting with the Long Term Care Authority of Tulsa to perform the function as the Administrative Agent for the ADvantage Program. The Oklahoma Department of Human Services/Aging Services Division has assumed the administrative responsibility for the ADvantage Program. Rules are further revised to update definitions, terminology, and procedures.
CONTACT PERSON:
Tywanda Cox at (405)522-7153

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 APRIL 1, 2009:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 85. ADVANTAGE PROGRAM WAIVER SERVICES

317:30-5-761. Eligible providers

ADvantage Program service providers, except pharmacy providers, must be certified by the ADvantage Program ~~Administrative Agent~~ ADvantage Administration (AA) and all providers must have a current signed SoonerCare contract on file with the Medicaid Agency (Oklahoma Health Care Authority).

(1) The provider programmatic certification process ~~shall verify~~ verifies that the provider meets licensure, certification and training standards as specified in the waiver document and agrees to ADvantage Program Conditions of Participation. Providers must obtain programmatic certification to be ADvantage Program certified.

(2) The provider financial certification process ~~shall verify~~ verifies that the provider uses sound business management practices and has a financially stable business. All providers, except for NF Respite, Medical Equipment and Supplies, and Environmental Modification providers, must obtain financial certification to be ADvantage Program certified.

(3) Providers may fail to gain or may lose ADvantage Program certification due to failure to meet either programmatic or financial standards.

(4) At a minimum, the AA reevaluates provider financial certification annually.

(5) The AA relies upon the Oklahoma Department of Human Services (OKDHS)/Aging Services Division (ASD) for ongoing programmatic evaluation of Adult Day Care and Home Delivered Meal providers for continued programmatic certification. Providers of Medical Equipment and Supplies, Environmental Modifications, Personal Emergency Response Systems, Hospice, CD-PASS, and NF Respite services do not have a programmatic evaluation after the initial certification.

(6) OKDHS/ASD may authorize a legally responsible spouse or legal guardian of an adult member to be Medicaid reimbursed under the 1915(c) ADvantage Program as a service provider, if the provider meets all of the following authorization criteria and monitoring provisions:

(A) Authorization for a spouse or legal guardian to be the care provider for a member may occur only if the member is offered a choice of providers and documentation demonstrates that:

(i) either no other provider is available; or

(ii) available providers are unable to provide necessary care to the member; or

(iii) the needs of the member are so extensive that the spouse or legal guardian who provides the care is prohibited from working outside the home due to the member's need for care.

(B) The service must:

(i) meet the definition of a service/support as outlined in the federally approved waiver document;

(ii) be necessary to avoid institutionalization;

(iii) be a service/support that is specified in the individual service plan;

(iv) be provided by a person who meets the provider qualifications and training standards specified in the waiver for that service;

(v) be paid at a rate that does not exceed that which would otherwise be paid to a provider of a similar service and does not exceed what is allowed by the State Medicaid Agency for the payment of personal care or personal assistance services;

(vi) not be an activity that the spouse or legal guardian would ordinarily perform or is responsible to perform. If any of the following criteria are met, assistance or care provided by the spouse or guardian will be determined to exceed the extent and/or nature of the assistance they would be expected to ordinarily provide in their role as spouse or guardian:

(I) spouse or guardian has resigned from full-time/part-time employment to provide care for the member; or

(II) spouse or guardian has reduced employment from full-time to part-time to provide care for the member; or

(III) spouse or guardian has taken a leave of absence without pay to provide care for the member; or

(IV) spouse or guardian provides assistance/care for the member 35 or more hours per week without pay and the member has remaining unmet needs because no other provider is available due to the nature of the assistance/care, special language or communication, or intermittent hours of care requirements of the member.

(C) The spouse or legal guardian who is a service provider will comply with the following:

(i) not provide more than 40 hours of services in a seven day period;

(ii) planned work schedules must be available in advance to the member's Case Manager, and variations to the schedule must be noted and supplied two weeks in advance to the Case Manager unless change is due to an emergency;

(iii) maintain and submit time sheets and other required documentation for hours paid; and

(iv) be documented in the service plan as the member's care provider.

(D) In addition to case management, monitoring, and reporting activities required for all waiver services, the state is obligated to additional monitoring requirements when members elect to use a spouse or legal guardian as a paid service provider. The AA will monitor through documentation submitted by the Case Manager the following:

(i) at least quarterly reviews by the Case Manager of expenditures and the health, safety, and welfare status of the individual ~~recipient~~ member; and

(ii) face-to-face visits with the ~~recipient~~ member by the Case Manager on at least a semi annual basis.

(7) The ~~AA or~~ OKDHS Aging Service Division (OKDHS/ASD) periodically performs a programmatic audit of Case Management, Home Care (providers of Skilled Nursing, State Plan Personal Care, In-Home Respite, Advanced Supportive/Restorative Assistance and Therapy Services), Comprehensive Home Care, and CD-PASS providers. If due to a programmatic audit, a provider Plan of Correction is required, the AA stops new case referrals to the provider until the Plan of Correction has been approved and implemented. Depending on the nature and severity of problems discovered during a programmatic audit, at the discretion of the ~~AA and~~ OKDHS/ASD, members determined to be at risk for health or safety may be transferred from a provider requiring a Plan of Correction to another provider.

317:30-5-763.1. Medicaid agency monitoring of the ADvantage program

The ~~Medicaid Agency~~ OHCA will monitor the eligibility process and the ADvantage plan of care approval process by reviewing annually a minimum of three percent of ADvantage member service plans and associated member eligibility documents for members selected at random from the total number of members having new, reassessed or closed plans during the most recent 12 month audit period.

(1) The ~~Medicaid Agency~~ OHCA's monitoring of the ADvantage Program is a quality assurance activity. The monitoring evaluates whether program medical and financial eligibility determinations and plans of care authorizations have been done in accordance with ~~Medicaid Agency~~ OHCA policy and requirements specified in the approved waiver document. The areas evaluated include:

(A) Member eligibility determination;

(B) Member "freedom of choice";

(C) ADvantage certified and ~~Medicaid~~ SoonerCare contracted providers on the plan;

(D) Member acceptance of the plan;

(E) Qualified case managers;

(F) Plan services are goal-oriented services; and,

(G) Plan of care costs are within cost cap guidelines.

(2) At the discretion of the ~~Medicaid Agency~~ OHCA, the random selection of members for audit shall be done by the MMIS or the AA Waiver Management Information System using an algorithm approved by the ~~Medicaid Agency~~ OHCA.

(3) At the discretion of the ~~Medicaid Agency~~ OHCA, the ~~Medicaid Agency~~ OHCA auditor may review records at the AA place of business or have the AA mail or transport copied file documents to the ~~Medicaid Agency~~ OHCA place of business.

(4) Missing documents and/or deficiencies found by the ~~Medicaid Agency~~ OHCA are reported to the AA for correction and/or explanation. Periodic reports of deficiencies are provided to ~~the OKDHS/ASD and~~ the AA.

PART 95. AGENCY PERSONAL CARE SERVICES

317:30-5-950. Eligible providers

Payment is made only to agencies that have been certified as personal care providers by the Oklahoma State Department of Health and are certified by the ADvantage Program ~~Administrative Agent~~ ADvantage Administration (AA) as meeting applicable federal, state and local laws, rules and regulations. In order to be eligible for payment, the personal care agency must have an approved provider agreement on file with the ~~Medicaid agency~~ OHCA, in accordance with OAC 317:30-3-2.

317:30-5-952. Prior authorization

Eligible members receiving personal care services must have an approved care plan developed by a PC services skilled nurse. For persons receiving ~~ADvatage~~ ADvantage Program services, the nurse works with the member's ADvantage Program Case Manager to develop the care plan. The amount and frequency of the service, to be provided to the member, is listed on the care plan. The amount and frequency of PC services is approved by the OKDHS nurse or ~~by the Administrative Agent's (AA) authorization of~~ authorized in the ADvantage Program Service Plan. At the time of a ~~PC services~~ member's initial referral to a PC services agency, ~~OKDHS or AA~~ OKDHS/ASD authorizes PC services, skilled nursing for PC services, needs assessment and care plan development. The number of units of PC services or PC skilled nursing the member is eligible to receive is limited to the amounts approved on the care plan as authorized by ~~OKDHS or AA~~ OKDHS/ASD. Care plans are authorized for no more than one year from the date of care plan authorization. Services provided without prior authorization are not compensable.

[OAR Docket #09-380; filed 3-17-09]

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

[OAR Docket #09-382]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 1. General Provisions
317:35-1-2. [AMENDED]
Subchapter 15. Personal Care Services
317:35-15-8.1. [AMENDED]
Subchapter 17. ADvantage Waiver Services
317:35-17-12. [AMENDED]
317:35-17-14. [AMENDED]
317:35-17-17. through 317:35-17-18. [AMENDED]
317:35-17-20. [REVOKED]
317:35-17-21.1. [AMENDED]
(Reference APA WF # 09-02B)
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 440.180; 42 CFR 440.167
DATES:
Adoption:
February 12, 2009
Approved by Governor:
March 9, 2009
Effective:
April 1, 2009
Expiration:
Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 15. Personal Care Services
317:35-15-8.1. [AMENDED]
(Reference APA WF # 08-22)
Gubernatorial approval:
January 2, 2009
Register publication:
26 Ok Reg 549
Docket number:
09-71

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 reflect the discontinuance of the administrative agent contract for the ADvantage Program between the Long Term Care Authority of Tulsa and the Oklahoma Department of Human Services. Formerly, the Oklahoma Department of Human Services contracted with the Long Term Care Authority of Tulsa to perform certain administrative functions related to the ADvantage Waiver. The Aging Services Division of the Oklahoma Department of Human Services has assumed those responsibilities and rule revisions are need to correctly reflect the change.

ANALYSIS:

Rules are revised to remove references to the Long Term Care Authority as the Administrative Agent of the ADvantage Program. The Oklahoma Department of Human Services has discontinued contracting with the Long Term Care Authority of Tulsa to perform the function as the Administrative Agent for the ADvantage Program. The Oklahoma Department of Human Services/Aging Services Division has assumed the administrative responsibility for the ADvantage Program. Rules are further revised to update definitions, terminology, and procedures.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

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 APRIL 1, 2009:

SUBCHAPTER 1. GENERAL PROVISIONS

317:35-1-2. Definitions

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

"Acute Care Hospital" means an institution that meets the requirements of 42CFR, Section 440.10 and:

(A) is maintained primarily for the care and treatment of patients with disorders other than mental diseases;

(B) is formally licensed or formally approved as a hospital by an officially designated authority for state standard setting; and

(C) meets the requirements for participation in Medicare as a hospital.

"~~Administrative agent~~ ADvantage Administration (AA)" means ~~the Long Term Care Authority who is under contract with~~ the Oklahoma Department of Human Services (OKDHS) ~~to perform~~ which performs certain administrative functions related to the ADvantage Waiver.

"AFDC" means Aid to Families with Dependent Children.

"Aged" means an individual whose age is established as 65 years or older.

"Aid to Families with Dependent Children" means the group of low income families with children described in Section 1931 of the Social Security Act. The Personal Responsibility and Work Opportunity Act of 1996 established the new eligibility group of low income families with children and linked eligibility income and resource standards and methodologies and the requirement for deprivation for the new group to the State plan for Aid to Families with Dependent Children in effect on July 16, 1996. Oklahoma has elected to be less restrictive for all ~~Medicaid clients~~ SoonerCare members related to AFDC.

"Area nurse" means a registered nurse in the OKDHS Aging Services Division, designated according to geographic areas who evaluates the UCAT and determines medical eligibility for Personal Care, ADvantage Waiver, and Nursing Facility services. The area nurse also approves care plan and service plan implementation for Personal Care services.

"Area nurse designee" means a registered nurse selected by the area nurse who evaluates the UCAT and determines medical eligibility for Personal Care, ADvantage Waiver, and Nursing Facility services.

"Authority" means the Oklahoma Health Care Authority (OHCA).

"Blind" means an individual who has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens.

"Board" means the Oklahoma Health Care Authority Board.

"Buy-in" means the procedure whereby the ~~Authority~~ OHCA pays the ~~client's~~ member's Medicare premium.

(A) **"Part A Buy-in"** means the procedure whereby the ~~Authority~~ OHCA pays the Medicare Part A premium for individuals determined eligible as Qualified Medicare Beneficiaries Plus (QMBP) who are enrolled in Part A and are not eligible for premium free enrollment as explained under Medicare Part A. This also includes individuals determined to be eligible as Qualified Disabled and Working Individuals (QDWI).

(B) **"Part B Buy-in"** means the procedure whereby the ~~Authority~~ OHCA pays the Medicare Part B premium for categorically needy individuals who are eligible for Part B Medicare. This includes individuals who receive TANF or the State Supplemental Payment to the Aged, Blind or Disabled, and those determined to be Qualified Medicare Beneficiary Plus (QMBP), Specified Low Income Medicare Beneficiaries (SLMB) or Qualifying Individual-1 (QI-1). Also included are individuals who continue to be categorically needy under the PICKLE amendment and those who retain eligibility after becoming employed.

"Caretaker relative" means a person other than the biological or adoptive parent with whom the child resides who meets the specified degree of relationship within the fifth degree of kinship.

"Case management" means the activities performed for ~~client's~~ members to assist them in accessing services, advocacy and problem solving related to service delivery.

"Categorically needy" means that income and when applicable, resources are within the standards for the category to which the ~~client~~ individual is related.

"Categorically related" or "related" means the individual is:

(A) aged, blind, or disabled;

(B) pregnant;

(C) an adult individual who has a minor child under the age of 18 and who is deprived of parental support due to absence, death, incapacity, unemployment; or

(D) a child under 19 years of age.

"Certification period" means the period of eligibility extending from the effective date of certification to the date of termination of eligibility or the date of the next periodic redetermination of eligibility.

"County" means the Oklahoma Department of Human Services' office or offices located in each county within the State.

"CSED" means the Oklahoma Department of Human Services' Child Support Enforcement Division.

"Custody" means the custodial status, as reported by the Oklahoma Department of Human Services.

"Deductible/Coinsurance" means the payment that must be made by or on behalf of an individual eligible for Medicare before Medicare payment is made. The coinsurance is that part of the allowable medical expense not met by Medicare, which must be paid by or on behalf of an individual after the deductible has been met.

(A) For Medicare Part A (Hospital Insurance), the deductible relates to benefits for in-patient services while the patient is in a hospital or nursing facility. After the deductible is met, Medicare pays the remainder of the allowable cost.

(B) For Medicare Part B (~~Supplemental~~ Medical Insurance), the deductible is an annual payment that must be made before Medicare payment for medical services. After the deductible is met, Medicare pays 80% of the allowable charge. The remaining 20% is the coinsurance.

"Disabled" means an individual who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted (or can be expected to last) for a continuous period of not less than 12 months.

"Disabled child" means for purposes of Medicaid Recovery a child of any age who is blind, or permanently and totally disabled according to standards set by the Social Security Administration.

"Estate" means all real and personal property and other assets included in the ~~recipient's~~ member's estate as defined in Title 58 of the Oklahoma Statutes.

"Gatekeeping" means the performance of a comprehensive assessment by the ~~LTC~~ OKDHS nurse utilizing the Uniform Comprehensive Assessment Tool (UCAT) for the determination of Medical eligibility, care plan development, and the determination of Level of Care for Personal Care, ADvantage Waiver and Nursing Facility services.

"Local office" means the Oklahoma Department of Human Services' office or offices located in each county within the State.

"LOCEU" means the Oklahoma Health Care Authority's Level of Care Evaluation Unit.

~~**"LTC nurse"** means a registered nurse in the OKDHS Aging Services Division who meets the certification requirements for UCAT Assessor and case manager, and who conducts the uniform assessment of individuals utilizing the Uniform Comprehensive Assessment Tool (UCAT) for the purpose of medical eligibility determination. The LTC nurse also develops care plans and service plans for Personal Care services based on the UCAT.~~

"Medicare" means the federally funded health insurance program also known as Title XVIII of the Social Security Act. It consists of ~~two~~ four separate programs. Part A is Hospital Insurance, ~~(HI) and~~ Part B is ~~Supplemental~~ Medical Insurance, ~~(SMI)~~ Part C is Medicare Advantage Plans, and Part D is Prescription Drug Coverage.

(A) **"Part A Medicare ~~(HI)~~"** means Hospital Insurance that covers services for inpatient services while the patient is in a hospital or nursing facility. Premium free enrollment is provided for all persons receiving OASDI or Railroad Retirement income who are age 65 or older and for those under age 65 who have been receiving disability benefits under these programs for at least 24 months.

(i) Persons with end stage renal disease who require dialysis treatment or a kidney transplant may also be covered.

(ii) Those who do not receive OASDI or Railroad Retirement income must be age 65 or over and pay a large premium for this coverage. Under Authority rules, these individuals are not required to enroll for Part A to be eligible for Medicaid benefits as categorically needy. They must however, enroll for Medicare Part B. Individuals eligible as a QMBP or as a Qualified Disabled and Working Individual (QDWI) under Medicaid are required to enroll for Medicare Part A. The Authority will pay Part A premiums for QMBP individuals who do not qualify for premium free Part A and for all QDWI's.

(B) **"Part B Medicare ~~(SMI)~~"** means Supplemental Medical Insurance that covers physician and related medical services other than inpatient or nursing facility care. Individuals eligible to enroll in Medicare Part B are required to do so under Authority policy. A monthly premium is required to keep this coverage in effect.

"Minor child" means a child under the age of 18.

"Nursing Care" for the purpose of Medicaid Recovery is care received in a nursing facility, an intermediate care facility for the mentally retarded or other medical institution providing nursing and convalescent care, on a continuing basis, by professional personnel who are responsible to the institution for professional medical services.

"OHCA" means the Oklahoma Health Care Authority.

"OKDHS" means the Oklahoma Department of Human Services.

"OKDHS nurse" means a registered nurse in the OKDHS Aging Services Division who meets the certification requirements for UCAT Assessor and case manager, and who conducts the uniform assessment of individuals utilizing the Uniform Comprehensive Assessment Tool (UCAT) for the purpose of medical eligibility determination. The OKDHS nurse also develops care plans and service plans for Personal Care services based on the UCAT.

"Qualified Disabled and Working Individual (QDWI)" means individuals who have lost their Title II OASDI benefits due to excess earnings, but have been allowed to retain Medicare coverage.

"Qualified Medicare Beneficiary Plus (QMBP)" means certain aged, blind or disabled individuals who may or may not be enrolled in Medicare Part A, meet the Medicaid QMBP income and resource standards and meet all other Medicaid eligibility requirements.

"Qualifying Individual" means certain aged, blind or disabled individuals who are enrolled in Medicare Part A, meet the Medicaid Qualifying Individual income and resource standards and meet all other Medicaid eligibility requirements.

"Qualifying Individual-1" means a Qualified Individual who meets the Qualifying Individual-1 income and resource standards.

"Recipient lock-in" means when a ~~recipient~~ member is restricted to one primary physician and/or one pharmacy. It occurs when the OHCA determines that a ~~Medicaid recipient~~ SoonerCare member has used multiple physicians and/or pharmacies in an excessive manner over a 12-month period.

"Scope" means the covered medical services for which payment is made to providers on behalf of eligible individuals. The Oklahoma Health Care Authority Provider Manual (OAC 317:30) contains information on covered medical services.

"Specified Low Income Medicare Beneficiaries (SLMB)" means individuals who, except for income, meet all of the eligibility requirements for QMBP eligibility and are enrolled in Medicare Part A.

"TEFRA" means the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248). TEFRA provides coverage to certain disabled children living in the home who would qualify for ~~Medicaid~~ SoonerCare if residents of nursing facilities, ICF/MRs, or inpatient acute care hospital stays are expected to last not less than 60 days.

"Worker" means the OKDHS worker responsible for ~~Medicaid~~ SoonerCare eligibility determinations.

SUBCHAPTER 15. PERSONAL CARE SERVICES

317:35-15-8.1. Agency Personal Care services; billing, and issue resolution

The ~~Administrative Agent~~ ADvantage Administration (AA) certifies qualified PC service agencies and facilitates the execution of the agencies' SoonerCare contracts on behalf of OHCA. OHCA will check the list of providers that have been barred from Medicare/Medicaid participation to ensure that the PC services agency is not listed.

(1) **Payment for Personal Care.** Payment for PC services is generally made for care in the member's "own home". In addition to an owned or rented home, a rented apartment, room or shelter shared with others is considered to be the member's "own home". A facility that meets the definition of a nursing facility, room and board, licensed residential care facility, licensed assisted living facility, group home, rest home or a specialized home as set forth in O.S. Title 63, Section 1-819 et seq., Section 1-890.1 et seq., and Section 1-1902 et seq., and/or in any other type of settings prohibited under applicable federal or state statutes, rules, regulations, or other written instruments that have the effect of law is not a setting that qualifies as the member's "own home" for delivery of PC services through SoonerCare. With prior approval, PC services may be provided in an educational or employment setting to assist the member in achieving vocational goals identified on the care plan.

(A) **Use of Personal Care service agency.** To provide PC services, an agency must be licensed by the Oklahoma State Department of Health, meet certification standards identified by OKDHS or the AA, and possess a current SoonerCare contract.

(B) **Reimbursement.** Personal Care services payment on behalf of a member is made according to the type of service and number of units of PC services authorized in the care plan.

(i) The amount paid to PC services providers for each unit of service is according to the established SoonerCare rates for the PC services. Only authorized units contained on each eligible member's individual care plan are eligible for reimbursement. Providers serving more than one PC service member residing in the same residence will assure that the members' care plans combine units in the most efficient manner possible to meet the needs of all eligible persons in the residence.

(ii) Payment for PC services is for tasks performed in accordance with OAC 317:30-5-951 only when listed on an authorized care plan. Payment for PC skilled nursing service is made on behalf of the member for assessment/evaluation and associated service planning per assessment/service planning visit by the provider agency personal care skilled nurse.

(2) **Issue resolution.** If the member is dissatisfied with the PC services provider agency or the assigned PCA, and has exhausted attempts to work with the PC services agency's grievance process without resolution, the member may contact the OKDHS nurse to attempt to resolve the issues. The member has the right to appeal to the OHCA in accordance with OAC 317:2-1-2. For members receiving ADvantage services, the member or family should contact their case manager for the problem resolution. If the problem remains unresolved, the member or family should contact the Consumer Inquiry System (CIS). Providers are required to provide the CIS contact

number to every member. The ADvantage Program member also has the right to appeal to the OHCA in accordance with OAC 317:2.

SUBCHAPTER 17. ADVANTAGE WAIVER SERVICES

317:35-17-12. Certification for ADvantage program services

(a) **Application date.** If the applicant is found eligible for ~~Medicaid~~ SoonerCare, certification may be effective the date of application. The first month of the certification period must be the first month the member was determined eligible for ADvantage, both financially and medically.

(1) As soon as eligibility or ineligibility for ADvantage program services is established, the worker updates the computer form and the appropriate notice is computer generated to the member and the ~~Administrative Agent~~ ADvantage Administration (AA). Notice information is retained on the notice file for county use.

(2) An applicant approved for ADvantage program services is mailed a Medical Identification Card.

(b) **Financial certification period for ADvantage program services.** The financial certification period for the ADvantage program services is 12 months. Although "medical eligibility number of months" on the computer input record will show 99 months, redetermination of eligibility is completed according to the categorical relationship.

(c) **Medical Certification period for ADvantage program services.** The medical certification period for the ADvantage program services is 12 months. Reassessment and redetermination of medical eligibility is completed in coordination with the annual recertification of the member's service plan by the case manager. In addition, an independent evaluation of medical eligibility is completed by the OKDHS Nurse at least every third year. If documentation supports a reasonable expectation that the member will not continue to meet medical eligibility criteria or have a need for long term care services for more than 12 months, the OKDHS Nurse does an independent evaluation of medical eligibility before the end of the current medical certification period.

317:35-17-14. Case Management services

(a) Case management services involve ongoing assessment, service planning and implementation, service monitoring and evaluation, ~~client~~ member advocacy, and discharge planning.

(1) Within one working day of receipt of an ADvantage referral from the ADvantage Administration (AA), the case management supervisor assigns a case manager to the ~~client~~ member. Within three working days of being assigned an ADvantage ~~client~~ member, the case manager makes a home visit to review the ADvantage program (its purpose, philosophy, and the roles and responsibilities of the ~~client~~ member, service provider, case manager, ~~Administrative Agent~~ AA and OKDHS in the program), and review, update and complete the UCAT assessment, and to discuss service needs and ADvantage service providers. The Case Manager notifies in writing the ~~client's~~ member's UCAT identified primary physician that the ~~client~~ member has been determined eligible to receive ADvantage services. The notification is via a preprint form that contains the ~~client's~~ member's signed permission to release this health information and requests physician's office verification of primary and secondary diagnoses and diagnoses code obtained from the UCAT.

(2) Within 10 working days of the receipt of ADvantage referral, or the annual re-assessment visit, the case manager completes and submits to the case management supervisor an individualized care plan and service plan for the ~~client~~ member. The care plan and service plan are based on the ~~client's~~ member's service needs identified by the UCAT, Part III, and includes only those ADvantage services required to sustain and/or promote the health and safety of the ~~client~~ member. The case manager uses an interdisciplinary team (IDT) planning approach for care plan and service plan development. If in-home care is the primary service, the IDT includes, at a minimum, the ~~client~~ member, a nurse from the ADvantage in-home care provider chosen by the ~~client~~ member, and the case manager. Otherwise, the ~~client~~ member and case manager constitute a minimum IDT.

(3) The case manager identifies long-term goals, challenges to meeting goals, and service goals including plan objectives, actions steps and expected outcomes. The case manager identifies services, service provider, funding source, units and frequency of service and service cost, cost by funding source and total cost for ADvantage services. The ~~client~~ member signs and indicates review/agreement with the care plan and service plan by indicating acceptance or non-acceptance of the plans. The ~~client~~ member, the ~~client's~~ member's legal guardian or legally authorized representative shall sign the service plan in the presence of the case manager. The signatures of two witnesses are required when the ~~client~~ member signs with a mark. If the ~~client~~ member refuses to cooperate in development of the service plan, or, if the ~~client~~ member refuses to sign the service plan, the case management agency refers the case to the AA for resolution. In addition, based on the UCAT and/or case progress notes that document chronic uncooperative or disruptive behaviors, the LTC nurse or AA may identify ~~clients~~ members that require AA intervention.

(A) For ~~clients~~ members that are uncooperative or disruptive, the AA develops an individualized Addendum to the Rights and Responsibilities Agreement to try to modify the ~~client's~~ member's uncooperative/disruptive behavior. The ~~rights~~ Rights and ~~responsibilities~~ Responsibilities addendum focuses on behaviors, both favorable and those that jeopardize the ~~consumer's~~ member's well-being and includes a design approach of incremental plans and addenda that allow the ~~client~~ member to achieve stepwise successes in the modification of their behavior.

(B) The AA may implement a service plan without the ~~client's~~ member's signature if the AA has developed an Addendum to the Rights and Responsibilities Agreement for the ~~client~~ member. For these ~~clients~~ members the presence of a document that "requires" their signature may itself trigger a "conflict". In these circumstances, mental health/behavioral issues may prevent the ~~client~~ member from controlling their behavior to act in their own interest. Since the person by virtue of level of care and the IDT assessment, needs ADvantage services to assure their health and safety, the AA may implement the service plan if the AA demonstrates effort to work with and obtain the ~~client's~~ member's agreement through an individualized Addendum to the Rights and Responsibilities Agreement. Should negotiations not result in agreement with the care plan and service plan, the ~~client~~ member may withdraw their request for services or request a fair hearing.

(4) CD-PASS Planning and Supports Coordination.

(A) The ADvantage Case Management provider assigns to the CD-PASS ~~client~~ member a Case Manager that has successfully completed training on CD-PASS, Independent Living Philosophy and Person-centered planning. Case Managers that have completed this specialized CD-PASS training are referred to as Consumer-Directed Agent/Case Managers (CDA/CM) with respect to their CD-PASS service planning and support role in working with CD-PASS ~~clients~~ members. The CDA/CM educates the ~~client~~ member about their rights and responsibilities as well as about community resources, service choices and options available to the ~~client~~ member to meet CD-PASS service goals and objectives.

(B) The ~~client~~ member may designate a family member or friend as an "authorized representative" to assist in the service planning process and in executing ~~client~~ member employer responsibilities. If the ~~client~~ member chooses to designate an "authorized representative", the designation and agreement identifying the "willing adult" to assume this role and responsibility is documented with dated signatures of the ~~client~~ member, the designee and the ~~client's~~ member's Case Manager or the AA staff.

(i) A person having guardianship or power of attorney or other court sanctioned authorization to make decisions on behalf of the ~~client~~ member has legal standing to be the ~~client's~~ member's designated "authorized representative".

(ii) An individual hired to provide Personal Services Assistance to a ~~client~~ member may not be designated the "authorized representative" for the ~~client~~ member.

(C) The CDA/CM provides support to the ~~client~~ member in the ~~Person-centered~~ Person-Centered CD-PASS ~~planning~~ Planning process. ~~Person-centered planning~~ Person-Centered Planning is a process directed by the participant, with assistance as needed from an "authorized representative" or support team. The process supports the ~~client~~ member to exercise choice and control and to assume a responsible role in developing, implementing and managing their services and supports. The process is intended to identify the strengths, capacities, preferences, needs and desired outcomes of the participant and it may enlist assistance from individuals freely chosen by the participant to serve as important contributors. The ~~person-centered planning~~ Person-Centered Planning process enables the participant to identify and access a personalized mix of paid and non-paid services and supports to help him/her achieve personally-defined outcomes in the most inclusive community setting. The focus of ~~person-center planning~~ Person-Centered Planning is on the individual's development of personal relationships, positive roles in community activities, and self-empowerment skills. Decisions are made and outcomes controlled by the participant. Strengths, preferences and an individualized system of support are identified to assist the individual to achieve functional and meaningful goals and objectives. Principles of Person-Centered Planning are as follows:

(i) The person is the center of all planning activities.

(ii) The ~~client~~ member and their representative, or support team, are given the requisite information to assume a controlling role in the development, implementation and management of the ~~client's~~ member's services.

(iii) The individual and those who know and care about him or her are the fundamental sources of information and decision-making.

(iv) The individual directs and manages a planning process that identifies his or her strengths, capacities, preferences, desires, goals and support needs.

(v) ~~Person-centered planning~~ Person-Centered Planning results in personally-defined outcomes.

(D) The CDA/CM encourages and supports the ~~client~~ member, or as applicable their designated "authorized representative", to lead, to the extent feasible, the CD-PASS service planning process for Personal Services Assistance. The CDA/CM helps the ~~client~~ member define support needs, service goals and service preferences including access to and use of generic community resources. Consistent with ~~client direction~~ member-direction and preferences, the CDA/CM provides information and helps the ~~client~~ member locate and access community resources. Operating within the constraints of the Individual Budget Allocation (IBA) units, the CDA/CM assists the ~~client~~ member in translating the assessment of ~~client~~ member needs and preferences into an individually tailored, personalized service plan.

(E) To the extent the ~~client~~ member prefers, the CDA/CM develops assistance to meet ~~client~~ member

needs using a combination of traditional Personal Care and CD-PASS PSA services. However, the CD-PASS IBA and the PSA unit authorization will be reduced proportional to agency Personal Care service utilization.

(F) The ~~client~~ member determines with the PSA to be hired, a start date for PSA services. The ~~client~~ member coordinates with the CDA/CM to finalize the service plan.

(G) Based on outcomes of the planning process, the CDA/CM prepares an ADvantage service plan or plan amendment to authorize CD-PASS Personal Service Assistance units consistent with this individual plan and notifies existing duplicative Personal Care service providers of the end date for those services.

(H) If the plan requires an APSA to provide assistance with Health Maintenance activities, the CDA/CM works with the ~~client~~ member and, as appropriate, arranges for training by a skilled nurse for the ~~client~~ member or ~~client's~~ member's family and the APSA to ensure that the APSA performs the specific Health Maintenance tasks safely and competently;

(i) If the ~~client's~~ member's APSA has been providing Advanced Supportive Restorative Assistance to the ~~client~~ member for the same tasks in the period immediately prior to being hired as the PSA, additional documentation of competence is not required;

(ii) If the ~~client~~ member and APSA attest that the APSA has been performing the specific Health Maintenance tasks to the ~~client's~~ member's satisfaction on an informal basis as a friend or family member for a minimum of two months in the period immediately prior to being hired as the PSA, and no evidence contra-indicates the attestation of safe and competent performance by the APSA, additional documentation is not required.

(I) The CDA/CM monitors the ~~client's~~ member's well being and the quality of supports and services and assists the ~~client~~ member in revising the PSA services plan as needed. If the ~~client's~~ member's need for services changes due to a change in health/disability status and/or a change in the level of support available from other sources to meet needs, the CDA/CM, based upon an updated assessment, amends the service plan to increase CD-PASS service units appropriate to meet additional ~~client~~ member's need and forwards the plan amendment to the AA for authorization and update of the ~~client's~~ member's IBA.

(J) The CDA/CM uses the ADvantage Risk Management process the results of which are binding on all parties to resolve service planning or service delivery disagreements between ~~clients~~ members and ADvantage service providers under the following circumstances:

(i) A claim is formally registered with the CDA/CM by the ~~client~~ member (or the ~~client's~~ member's family or "authorized representative"), the AA, or a provider that the disagreement poses a significant risk to the ~~client's~~ member's health or safety; and

(ii) The disagreement is about a service, or about the appropriate ~~frequence~~ frequency, duration or other aspect of the service; or

(iii) The disagreement is about a behavior/action of the ~~client~~ member, or about a behavior/action of the provider.

(K) The CDA/CM and the ~~client~~ member prepare an emergency ~~back-up/emergency~~ backup/emergency response capability for CD-PASS PSA services in the event a PSA provider of services essential to the individual's health and welfare fails to deliver services. As part of the planning process, the CDA/CM and ~~client~~ member define what failure of service or neglect of service tasks would constitute a risk to health and welfare to trigger implementation of the emergency backup. Any of the following may be used in planning for the backup:

(i) Identification of a qualified substitute provider of PSA services and preparation for their quick response to provide backup services when called upon in emergency circumstances (including execution of all qualifying background checks, training and employment processes); and/or,

(ii) Identification of one or more qualified substitute ADvantage agency service providers (Adult Day Care, Personal Care or Nursing Facility Respite provider) and preparation for their quick response to provide backup services when called upon in emergency circumstances.

(L) If the emergency backup fails, the CDA/CM is to request the AA to authorize and facilitate ~~client~~ member access to Adult Day Care, Agency Personal Care or Nursing Facility Respite services.

(5) The case manager submits the care plan and service plan to the case management supervisor for review. The case management supervisor documents the review/approval of the plans within two working days of receipt from the case manager or returns the plans to the case manager with notations of errors, problems, and concerns to be addressed. The case manager re-submits the corrected care plan and service plan to the case management supervisor within two working days. The case management supervisor returns the approved care plan and service plan to the case manager. Within one working day of receiving supervisory approval, the case manager makes a copy of the plans and other ~~client~~ member original documents for the ~~client~~ member's file, faxes a copy of the plan to the AA and forwards the original care plan and service plan and required documents.

(6) Within one working day of notification of care plan and service plan authorization, the case manager communicates with the service plan providers and with the ~~client~~ member to facilitate service plan implementation. Within one working day of receipt of a copy or the computer-generated authorized service plan from the

AA, the case manager sends (by mail or fax) copies of the authorized service plan or computer-generated copies to providers. Within five working days of notification of an initial or new service plan authorization, the case manager visits the ~~client~~ member, gives the ~~client~~ member a copy of the service plan or computer-generated copy of the service plan and evaluates the progress of the service plan implementation. The case manager evaluates service plan implementation on the following minimum schedule:

(A) within 30 calendar days of the authorized effective date of the service plan or service plan addendum amendment; and

(B) monthly after the initial 30 day follow-up evaluation date.

(b) **Authorization of service plans and amendments to service plans.** The ~~Administrative Agent~~ ADvantage Administration (AA) certifies the individual service plan and all service plan amendments for each ADvantage ~~client~~ member. When the AA verifies ~~client~~ member ADvantage eligibility, plan cost effectiveness, that service providers are ADvantage authorized and ~~Medicaid~~ SoonerCare contracted, and that the delivery of ADvantage services are consistent with the ~~client's~~ member's level of care need, the service plan is authorized. Except as provided by the process described in OAC 317:30-5-761(6), family members may not receive payment for providing ADvantage waiver services. A family member is defined as an individual who is legally responsible for the ~~client~~ member (spouse or parent of a minor child).

(1) If the service plan authorization or amendment request packet received from case management is complete and the service plan is within cost effectiveness guidelines, the AA authorizes or denies authorization within three working days of receipt of the request. If the service plan authorization or amendment request packet received from case management is complete and the service plan is not within cost-effectiveness guidelines, the plan is referred for administrative review to develop an alternative cost-effective plan or assist the ~~client~~ member to access services in an alternate setting or program. If the request packet is not complete, the AA notifies the case manager immediately and puts a "hold" on authorization until the required additional documents are received from case management.

(2) The AA authorizes the service plan by entering the authorization date and signing the submitted service plan. Notice of authorization and a copy of the authorized plan or a computer-generated copy of the authorized plan are provided to case management. AA authorization determinations are provided to case management within one working day of the certification date. A service plan may be authorized and implemented with specific services temporarily denied. The AA communicates to case management the conditions for approval of temporarily denied services. The case manager submits revisions for denied services to AA for approval.

(3) For audit purposes (including SURS reviews), the computer-generated copy of the authorized service plan is documentation of service authorization for ADvantage waiver and State Plan Personal Care services. State or Federal quality review and audit officials may obtain a copy of specific service plans with original signatures by submitting a request to the AA.

(c) **Change in service plan.** The process for initiating a change in the service plan is described in this subsection.

(1) The service provider initiates the process for an increase or decrease in service to the ~~client's~~ member's service plan. The requested changes and justification for them are documented by the service provider and, if initiated by a direct care provider, submitted to the ~~client's~~ member's case manager. If in agreement, the case manager requests the service changes on a care plan and service plan amendment submitted to the AA. The AA approves or denies the care plan and service plan changes within two working days of receipt of the plan.

(2) The ~~client~~ member initiates the process for replacing Personal Care services with Consumer-Directed Personal Services and Supports (CD-PASS) in geographic areas in which CD-PASS services are available. The ~~client~~ member may contact the AA using a CD-PASS services request form provided by the Case Manager or by calling the toll-free number established to process requests for CD-PASS services.

(3) A significant change in the ~~client's~~ member's physical condition or caregiver support, one that requires additional goals, deletion of goals or goal changes, or requires a four-hour or more adjustment in services per week, requires a UCAT reassessment by the case manager. The case manager, in consultation with AA, makes the determination of need for reassessment. Based on the reassessment and consultation with the AA, the ~~client~~ member may, as appropriate, be authorized for a new service plan or be eligible for a different service program. If the ~~client~~ member is significantly improved from the previous assessment and does not require ADvantage services, the case manager obtains the ~~client's~~ member's dated signature indicating voluntary withdrawal for ADvantage program services. If unable to obtain the ~~client's~~ member's consent for voluntary closure, the case manager requests assistance from the AA. The AA requests that the OKDHS area nurse initiate a reconsideration of level of care. If the ~~client's~~ member's service needs are different or have significantly increased, the case manager develops an amended or new service plan and care plan, as appropriate, and submits the new/amended plans for authorization.

317:35-17-17. Supplemental process for expedited eligibility determination (SPEED)

(a) When ~~DHS or~~ the ~~Administrative Agent~~ ADvantage Administration (AA) determines that a person requires ADvantage services to begin immediately to prevent nursing facility admission or to ensure the person's health or safety and the UCAT, Part I documents that the person is expected to be eligible for ADvantage, either the ~~DHS~~ OKDHS ~~LTC~~ nurse or the AA will complete the assessment for medical eligibility determination. The completed assessment forms are submitted

to the area nurse who makes the medical eligibility decision, enters it on the system and notifies the AA of the decision.

(b) If the applicant fails to meet financial eligibility, providers follow special procedures specified by the AA to bill for services provided. If authorized by the AA, case management providers may bill using an administrative case management procedure code for SPEED services delivered and not reimbursable under any other ADvantage case management procedure code.

317:35-17-18. ADvantage services during hospitalization or NF placement

If a ~~client~~ member requires hospital or nursing facility services, the case manager assists the ~~client is~~ member in accessing institutional care, periodically monitors the ~~client's~~ member's progress during the institutional stay and, as appropriate, updates the service plan and prepares services to start on the date the ~~client~~ member is discharged from the institution and returns home. All case management units for "institution transition" services to plan for and coordinate service delivery and to assist the ~~client~~ member to safely return home, even if provided while the person is in an institution, are to be considered delivered on and billed for the date the ~~client~~ member returns home from institutional care. When the case manager is informed (by the ~~client~~ member, family or service provider) of a ~~client's~~ member's hospitalization or placement in an NF, the case manager determines the date of the ~~client's~~ member's institutionalization and communicates the date, name of institution, reason for placement and expected duration of placement to the ~~Administrative Agent~~ ADvantage Administration (AA) and the ~~client's social~~ member's OKDHS worker.

(1) **Hospital discharge.** When the ~~client~~ member returns home from a hospital or when notified of the ~~client's~~ member's anticipated discharge date, the case manager notifies relevant providers and the AA and coordinates the resumption of services.

(2) **NF placement of less than 30 days.** When the ~~client~~ member returns home from a NF stay of 30 days or less or when notified of the ~~client's~~ member's anticipated discharge date the case manager notifies relevant providers, the ~~client's social~~ member's OKDHS worker and the AA of the discharge and coordinates the resumption of ADvantage services in the home.

(3) **NF placement greater than 30 days.** When the ~~client~~ member is scheduled to be discharged and return home from a NF stay that is greater than 30 days, the ~~client's DHS social~~ member's OKDHS worker, ADvantage case manager, or the AA (whoever first receives notification of the discharge), notifies other ADvantage Program Administrative partners to expedite the restart of ADvantage services for the ~~client~~ member. In these circumstances, the SPEED process may be used to re-establish ADvantage eligibility to coincide with the date of discharge from the NF. The ~~client's~~ member's case manager provides "institution transition" case management services to assist the ~~client~~ member to re-establish him or herself safely in the home.

317:35-17-20. Case transfer between categories

~~If it becomes necessary to transfer a case from one category to another because of change in age, income, or marital status, a new application is not required. If someone other than the client or guardian signed the original application form and the transfer is to a money payment case, an application with the client's signature is required. The new case is certified retaining the original certification date and redetermination date, using the appropriate code for transfer from the old category and the appropriate effective date which coincides with the closure of the previous case category. Clients, appropriate medical providers and the ADvantage AA are notified of the new case number and category by computer generated notice.~~

317:35-17-21.1. ADvantage and agency Personal Care provider certification

Either Aging Services or the ~~Administrative Agent~~ ADvantage Administration (AA) forwards information on all certified ADvantage and Personal Care agency providers providing services in the specific ~~DHS~~ OKDHS area to the area nurse and OKDHS county director. The provider information includes agency name, address, contact person for ADvantage/Personal Care programs, provider number, a list of ADvantage/Personal Care services the provider is certified to deliver, and other information as needed by ~~DHS~~ OKDHS staff to achieve efficient service delivery. ~~Aging Services and the~~ The AA ~~certify~~ certifies ADvantage case managers and case management supervisors. The AA maintains a master registry of certified ADvantage case management supervisors and case managers. Case manager certifications are based on successful completion of ADvantage case management training and demonstration of competency in case management and, for supervisors, case management supervision. As additional providers are certified in ~~a DHS~~ an OKDHS area or if a provider loses certification, Aging Services or the AA provides appropriate notice to the area nurse and OKDHS county director in counties affected by the certification changes. The OHCA may execute agreements to provide care only with qualified individuals and agencies and facilities which are properly licensed or certified by the state licensing or certification agency and, as applicable, Title XIX certified. The agreement is initiated by application from the individual agency or facility. The agreement expires on a specified date, with termination of the agency license or certification, or automatically terminated on notice, with appropriate documentation, to OHCA that the individual agency or facility is not in compliance with Title XIX (or other federal long-term care) requirements. The AA certifies Title XIX providers of ADvantage services with the exception of pharmacy and medical equipment and supply providers.

[OAR Docket #09-382; filed 3-17-09]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 10. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

[OAR Docket #09-478]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 2. Temporary Assistance for Needy Families (TANF) Work Program
340:10-2-8 [AMENDED]
(Reference APA WF 09-01)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 230.50, 230.52, 230.62, 230.64, and 230.65 of Title 56 of the Oklahoma Statutes; the Deficit Reduction Act of 2005; and Parts 261.2, 261.60, 261.61 and 262.2 of Title 45 of the Code of Federal Regulations (CFR).
DATES:
Adoption:
February 24, 2009
Approved by Governor:
March 12, 2009
Effective:
Immediately upon Governor's approval or April 1, 2009, whichever is later.
Expiration:
Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
FINDING OF EMERGENCY:
Emergency approval is requested as the Oklahoma Department of Human Services (OKDHS) finds there is a compelling public interest to increase participation allowances for TANF clients to provide them with an economic stimulus that will help TANF clients to improve their ability to participate in the TANF Work program and will better allow clients to care for their families.
ANALYSIS:
The purpose of the proposed rules is to revise Temporary Assistance for Needy Families (TANF) rules in accordance with the Deficit Reduction Act of 2005. Proposed revisions to OAC 340:10-2-8: (1) increase the daily participation allowance paid to TANF recipients when they participate in most TANF Work activities; and (2) add clarifying language.
CONTACT PERSON:
Dena Thayer at (405)521-4326

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 APRIL 1, 2009, WHICHEVER IS LATER:

SUBCHAPTER 2. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) WORK PROGRAM

340:10-2-8. Temporary Assistance for Needy Families (TANF) Work support services

(a) **Scope.** The worker provides or arranges payments and services for the participant to ensure successful completion of ~~his or her~~ the participant's employability plan to become self-supporting.

(1) Payments are authorized for items or services directly related to employment as an outcome.

(2) When support services are available and part of the employability plan, the participant's failure to cooperate in obtaining the support services constitutes a failure to participate in the TANF Work program.

(3) Items and services covered by the participant's medical card are not paid for by the support service fund.

(4) The only support services available to an applicant are the participant allowance and work activity payment.

(5) Payments are not authorized for reimbursement of expenses already paid by client or others.

(b) **Flexible funds.** The intent of flexible funds is to provide a participant with the necessary support services needed to accomplish his or her employment goals.

(1) Flexible funds are not available to the applicant.

(2) To be eligible for flexible funds, the participant must:

(A) otherwise be ready to participate in a required work activity for the minimum number of hours;

(B) have a guaranteed offer of employment; or

(C) be employed.

(3) Payments for the services through flexible funds are not an automatic entitlement to the participant.

(4) Flexible funds are not used for fines including traffic fines or any cost related to a criminal offense such as legal fees or court costs.

(5) Human services center (HSC) staff has final authority to determine authorizations.

(6) One-time payments of specific services are allowed after the service is rendered.

(7) Ongoing maintenance payments are not allowed.

(8) Relatives of the client are not eligible for payment. See OAC 340:10-9-1 for degree of relationship.

(c) **Other support services.**

(1) **Work activity payments.** ~~To be eligible for the work~~ Work activity ~~payment, the person must be~~ payments are issued to persons participating in or ready to participate in ~~or be in a required~~ assigned work ~~activity and in~~ activities when they have need of a small amount of cash to purchase specific items to aid them in participating in their assigned work activities such as a tank of gas, ~~or health, beauty~~ clothing, or personal items. The maximum amount approved cannot exceed $40 per month.

(2) **Participant allowances.** ~~Allowances~~ Daily cash allowances, up to a maximum of ~~$10~~ $13 for each day, are made to participants in assigned work activities which are scheduled, structured, and supervised.

(A) Lunch hours and travel time are not included as actual hours of attendance.

(B) For persons in Job Search, travel time between job interviews and job applications is included as actual hours of attendance.

(C) The participant makes appropriate daily entries on Form 08TW013E, Time and Progress Report, to

document actual hours in attendance and submits it to the worker by the time frame shown on the form.

(D) The daily allowance paid is:

(i) ~~$7~~ $8 each day when the work activity equals four hours or less; or

(ii) ~~$10~~ $13 each day when the work activity equals more than four hours.

(3) **Oklahoma State Bureau of Investigations (OSBI) background checks.** OSBI background checks may be requested for a participant who is placed in job skills training that requires an OSBI background check as a prerequisite for employment. The job skills training can include vocational training, hands-on work experience, or public or private sector work experience. The participant is advised of the requirement and Form 08AD060E, Request for Release of Information, is completed.

(4) **Child care.** Child care arrangements are made for each child(ren) in the home who is under age 13, mentally or physically incapable of self care, or under court supervision. The plans for child care are included on Form 08TW002E, TANF Work/Personal Responsibility Agreement. When the person begins active participation in TANF Work activities, child care services are documented.

(5) **Transportation contracts.** Transportation contracts are initiated to provide transportation for TANF recipients who have no means of transportation to access required TANF Work training activities. To initiate a transportation contract, HSC staff contact the Family Support Services Division TANF Section.

(6) **Disability Advocacy Program (DAP).** DAP is available to assist a TANF Work participant or a child(ren) receiving a TANF benefit, who has an application for disability pending with the Social Security Administration (SSA) or who the Oklahoma Department of Human Services (OKDHS) determines has a potentially meritorious claim for such benefits.

(A) The worker makes a referral to the OKDHS contracted law firm to assist the recipient(s) with the:

(i) application;

(ii) reconsideration;

(iii) Administrative Law Judge hearing; and

(iv) review by the SSA Appeals Council.

(B) The evaluation of merit determines if the appropriate SSA test for disability would be met if evidence was available to prove all conditions claimed by the TANF recipient. If the evaluation of merit determines there is:

(i) sufficient evidence, the law firm represents the TANF recipient.

(I) Statewide this representation consists of assisting the recipient with the application through an unfavorable decision by the SSA Appeals Council.

(II) In counties in which representation by a lawyer or experienced non-lawyer advocate is not available without advance payment, the contracted law firm assists with the pending application for disability through an unfavorable decision by the SSA Appeals Council; or

(ii) insufficient evidence to prove conditions claimed by the TANF recipient, no further services are provided by DAP. Representation by the law firm ceases at any time the law firm determines there is insufficient evidence to support the TANF recipient's claim for disability benefits.

[OAR Docket #09-478; filed 3-25-09]

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

[OAR Docket #09-343]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 2. Definitions [NEW]
590:10-2-1. General Definitions [NEW]
AUTHORITY:
Oklahoma Public Employees Retirement System Board of Trustees, pursuant to 74 O.S. §§901, 909 and 909.1.
DATES:
Public hearing:
February 19, 2009
Adoption:
February 19, 2009
Approved by Governor:
March 4, 2009
Effective:
Immediately upon Governor's approval
Expiration:
Effective through July 14, 2010, 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 an imminent peril exists to the preservation of the public health, safety, or welfare, or that a compelling public interest requires an emergency rule, amendment, revision, or revocation of an existing rule. This emergency rule is necessary as a result of the recent requirements of the Internal Revenue Service regarding plan qualification. The Agency currently has a determination letter pending approval before the Internal Revenue Service regarding plan qualification and a Qualified Excess Benefit Plan. The Internal Revenue Service has concerns with the definition of "participating employer" and has requested clarification. This amendment provides the clarification the Internal Revenue Service is seeking and should assist the IRS in the determination letter approval process. The Internal Revenue Service is unlikely to make a favorable determination without this clarification. A favorable determination letter is beneficial to participants in the retirement plan.
ANALYSIS:
This rule sets forth the definition of participating employer as defined in Section 902(25) of Title 74 of the Oklahoma Statutes. It clarifies that participating employer includes only those employers who are permitted to participate in a qualified governmental pension plan pursuant to the Internal Revenue Code.
CONTACT PERSON:
Joseph A. Fox (405) 858-6737

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 2. DEFINITIONS

590:10-2-1. General definitions

"Participating employer" as defined in Section 902(25) of Title 74 of the Oklahoma Statutes means an eligible employer who has agreed to make contributions to the System on behalf of its employees provided such employer is the State, a political subdivision of the State, or an agency or instrumentality of the State. Participating employer shall not include any employer which is not permitted to participate in a qualified governmental pension plan as defined in Internal Revenue Code Section 414(d), 26 U.S.C. §414(d).

[OAR Docket #09-343; filed 3-11-09]

Permanent Final Adoptions

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

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

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

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

TITLE 55. BOARD OF GOVERNORS OF THE LICENSED ARCHITECTS, LANDSCAPE ARCHITECTS AND INTERIOR DESIGNERS OF OKLAHOMA
CHAPTER 10. LICENSURE AND PRACTICE OF ARCHITECTS, LANDSCAPE ARCHITECTS AND REGISTRATION OF INTERIOR DESIGNERS

[OAR Docket #09-477]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
55:10-1-3. Definitions [AMENDED]
Subchapter 3. Adminstrative Operations
55:10-3-13. Fees and penalties [AMENDED]
Subchapter 5. Application and Eligibility for Licensing or Registration
55:10-5-6. Active and inactive applications [AMENDED]
55:10-5-7. Qualifications for an Architect License [AMENDED]
55:10-5-8. ~~Qualification~~Qualifications for a Landscape Architect License [AMENDED]
55:10-5-10. Qualifications for Registration as an Interior Designer [AMENDED]
55:10-5-11. Changing resident state and applying for a Reciprocal License or Registration [AMENDED]
Subchapter 7. Examination
55:10-7-1. Examination required for Candidates [AMENDED]
55:10-7-3. Examination [AMENDED]
55:10-7-6. Grading [AMENDED]
55:10-7-7. Reexamination [AMENDED]
55:10-7-9. Transfers of examination grades prior to licensing [AMENDED]
Subchapter 9. Licensing and Registration
55:10-9-11. Reinstatement of a License or Registration based on cause [AMENDED]
Subchapter 11. Rules of Professional Conduct
55:10-11-7. Professional conduct [AMENDED]
55:10-11-9. Authorized use of seal [AMENDED]
55:10-11-10. Required use of seal, signature and date on documents and retention period [AMENDED]
55:10-11-12. Prohibited use of seal [AMENDED]
Subchapter 13. Organizational Practice
55:10-13-2. Licensee required in each office [AMENDED]
55:10-13-5. Establishing criteria for issuance of Certificate of Authority or Certificate of Title [AMENDED]
55:10-13-20. Use of fictitious name in title of firm name [AMENDED]
Subchapter 15. Violations
55:10-15-2. Grounds for violations and penalties [AMENDED]
55:10-15-10. Informal resolution [AMENDED]
AUTHORITY:
Board of Governors of the Licensed Architects, Landscape Architects and Interior Designers of Oklahoma; 59 O.S., Sections 46.1 et seq.
DATES:
Comment period:
October 15, 2008 through November 14, 2008
Public hearing:
November 17, 2008
Adoption:
December 3, 2008
Submitted to Governor:
December 11, 2008
Submitted to House:
December 11, 2008
Submitted to Senate:
December 11, 2008
Gubernatorial approval:
January 2, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009
Final adoption:
March 24, 2009
Effective Date:
April 27, 2009
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 3. Administrative Operations
55:10-3-13. Fees and penalties [AMENDED]
Gubernatorial approval:
May 23, 2008
Register publication:
To be published in May 1, 2009 issue
Docket number:
09–591
INCORPORATED BY REFERENCE:
n/a
ANALYSIS:
In accordance with the Oklahoma State Architectural and Interior Designers Act codified at 59 O.S § 46.1 et. seq., the proposed revisions to Subchapter 1 are adding definitions to the Rules. Changes to Subchapter 3 are being proposed to make emergency rules permanent and increases licensing fees and penalties to make the agency's finances solvent. All other Rule changes are minor clean up items.
CONTACT PERSON:
Jean Williams, Executive Director, 3555 NW 58th Street, Suite 640, Oklahoma City, OK 73112, 405-949-2383

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1 (A), WITH AN EFFECTIVE DATE OF APRIL 27, 2009:

SUBCHAPTER 1. GENERAL PROVISIONS

55:10-1-3. Definitions

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

"Act" means the currently enacted and effective legislation codified at 59 O.S., Section 46.1, et seq.

"Applicant" means an individual who has submitted an application for a License or Registration to the Board.

"Architect" means an individual who engages in the practice of architecture and, for the purpose of these Chapter 10 Rules, holds a License issued by the Board.

"Architect(s) of Record" means a Licensee currently licensed as an Architect or Landscape Architect and in good standing with this Board, that has met statutory and OAC 55:10 requirements, who is directly responsible to the Board for the firm practice, filings, paying all fees, penalties and submitting all documents.

"Architectural Intern" shall have the same meaning as "Intern Architect".

"ARE" means the current architect registration examination prepared by NCARB and adopted by the Board as the examination to be used in determining a Candidate's qualifications to practice architecture.

"Board" means the Board of Governors of the Licensed Architects, Landscape Architects and Interior Designers of Oklahoma.

"Broadly Experienced" means a person who can demonstrate that the Board's education standards have been met through a combination of education and comprehensive architectural, landscape architectural or interior design experience. This person is currently licensed or registered in one of these professions in another jurisdiction for (10) ten years and is in good standing, The person seeking licensure or registration may be required to have a personal interview by the Board and may, at the sole discretion of the Board, issue licensure or registration.

"Building types" means the types of buildings found in O.S. 59, Section 46.21b of the Act.

"Candidate" means an individual who has been approved to sit for the examinations given by the Board, or who has passed said examinations, but has not been issued a License or Certificate of Registration.

"CE" means continuing education.

"Certificate of Authority" means the authorization granted by the Board for individuals to practice or offer to practice architecture or landscape architecture in the state through an Entity.

"Certificate of Registration" means the authority granted by the Board to an individual Registrant to offer services as interior design and represent the individual as an Interior Designer in the state.

"Certificate of Title" means the authorization granted by the Board to an Entity to use the title Interior Designer or offer services as interior design.

"CEU" means a continuing education unit of one Contact Hour.

"CIDA" means Council of Interior Design Accreditation or its successor.

"CLARB" means Council of Landscape Architectural Registration Boards or its successor.

"Contact Hour" as used in the continuing education requirements means one clock hour of not less than 50 minutes.

"Direct supervision" means working conditions where a licensed Architect, Landscape Architect or Interior Designer is in each office and is a resident Licensee or Registrant regularly employed in that office, supervising the intern or employees and is directly responsible for all tactical and technical decisions on projects.

"Entity" means any group of individuals joined together to offer or contract for services to practice architecture, landscape architecture or use the term interior design or the title of Interior Designer. Entity shall include individuals, partnerships, firms, associations, corporations, limited liability companies and limited liability partnership and any other business or professional group recognized under the Act and approved by the Board.

"Examination" means the current licensing and Registration examinations administered by this Board, or its designee, for Architects, Landscape Architects or Interior Designers.

"Fiscal Year" means July 1 though June 30.

"IDP" means Intern Development Program.

"IDEP" means the Interior Design Experience Program.

~~**"Intern"** means an individual in the process of obtaining training credits acceptable to the Board in order to complete requirements to pursue licensing or Registration.~~

"Interior Designer" means an individual registered by the Board to use the title Interior Designer.

"Interior Designer Intern" shall have the same meaning as "Intern Interior Designer".

"Interior Designer of Record" means a registered Interior Designer in good standing with this Board, that has met statutory and OAC 55:10 requirements, and who is directly responsible to the Board for the activities, filings, paying all fees, penalties and submitting all documents for the Entity having been issued the Certificate of Title.

"Intern Architect" means an individual in the process of obtaining training acceptable to the Board in order to complete requirements and/or is currently testing to pursue licensing as an Architect.

"Intern Interior Designer" means an individual in the process of obtaining training acceptable to the Board in order to complete requirements and/or is currently testing to pursue Registration as an Interior Designer.

"Intern Landscape Architect" means an individual in the process of obtaining credits acceptable to the Board in order to complete requirements and is currently testing to pursue licensing as a Landscape Architect.

"LAAB" means Landscape Architectural Accrediting Board or its successor.

"LARE" means the current Landscape Architect registration examination prepared by CLARB and adopted by the Board as the licensing examination to be used in determining a Candidate's qualifications to practice landscape architecture.

"Landscape Architect" means an individual licensed to practice landscape architecture in Oklahoma.

"Landscape Architectural Intern" shall have the same meaning as "Intern Landscape Architect".

"License" means a License to practice architecture or landscape architecture issued by the Board and permission to use the title Architect or Landscape Architect.

"Licensee" means a licensed Architect or Landscape Architect that practices architecture or landscape architecture.

"NAAB" means the National Architectural Accrediting Board or its successor.

"NASAD" means the National Association of the Schools of Art and Design or its successor.

"NCARB" means National Council of Architectural Registration Boards or its successor.

"NCIDQ" means National Council for Interior Designers Qualification, the organization administering examinations and setting model practice standards for the Registration of Interior Designers, or its successor.

"Reciprocal License" means a License granted by the Board to an individual to practice architecture or landscape architecture and granting use of the term Architect or Landscape Architect or any derivation of the word based on a current License in good standing in another jurisdiction meeting the requirements for licensing in this State.

"Reciprocal Registration" means a registration granted by the Board to an individual to use the title Interior Designer or any derivation of the word based on the License or Registration in good standing in another jurisdiction meeting the requirements for Registration in this state.

"Registrant" means an individual registered by the Board to use the title Interior Designer, as a designation of the individual's profession.

"Registration" means the authority granted by this Board to a qualified individual to use the term Interior Designer unless exempt by the Act from Registration.

"Resident State" means the state where the Applicant, Candidate, Licensee or Registrant legally resides.

"Responsible Control" shall have the meaning set forth in the Act.

"Rules" means this Oklahoma Administrative Code, Title 55, Chapter 10 Rules.

"Sole proprietorship" means the only owner of a firm, licensed or registered as an individual by the Board.

"Sponsor" means an individual, organization, association, institution or other entity that provides an educational activity for the purpose of fulfilling the continuing educational requirements of the Board.

"Technical submissions" means designs, drawings, specifications, studies and other technical reports prepared in the course of the practice of architecture or landscape architecture.

"UNE" means the former Landscape Architect licensing examination, prepared by CLARB and adopted by the Board as the licensing examination.

SUBCHAPTER 3. ADMINSTRATIVE OPERATIONS

55:10-3-13. Fees and penalties

(a) **Schedule of fees and penalties are as follows:**

(1) Initial and subsequent biennial License, Registration or renewal fee -- ~~$225.00~~$350.00

(2) Reciprocal License or Registration application fee -- $100.00

(3) Examination & Retake application fee -- $75.00

(4) Examination -- Actual Cost

(5) Late payment penalty -- $25.00

(6) Returned (insufficient funds) check fee -- $25.00

(7) Reinstatement penalty -- ~~$100.00~~ $200.00

(8) Certificate of Authority and Certificate of Title application, revision or renewal fee -- ~~$100.00~~$350.00

(9) Duplicate certificate -- $25.00

(10) Roster-- $ .25 per page or electronic copy $25.00

(11) Transcript of hearing-- Actual Cost plus $25.00

(12) Copy of public records-- $ .25 per page

(13) Emeritus License -- All fees waived

(14) CE reinstatement penalty-- $1000.00 (per biennial renewal period of noncompliance)

(15) Civil penalties -- Set by the Act

(16) Manual processing fee-- $25.00 per transaction

(17) File Transfer fee-- $75.00

(18) Readmission Application fee-- $100.00

(b) **Fee exemption based on temporary military deployment.** The Board shall waive all fees, penalties and continuing education, if applicable, during the time Licensees, Registrants or Candidates are called to active military duty in the armed forces of the United States and deployed to a temporary military assignment. In order to obtain this exemption, the Licensees, Registrants or Candidates are required to submit to the Board office military documentation of such deployment. Upon receipt, the staff shall make a note to the file and the Licensees, Registrants or Candidates shall be placed on active military status for the duration of the abovementioned deployment. At the end of the temporary deployment, the Licensees, Registrants or Candidates shall submit to the Board office within ninety (90) days, military documentation that the individual has returned from deployment. The individual will than be returned to regular active status. All fees, penalties and continuing education, if applicable, will be waived until the beginning of the next biennial License or Registration period. This exemption from fees and penalties shall also apply to the Certificate of Authority or the Certificate of Title if the Licensee is the only Architect of Record or the Registrant is the only Interior Designer of Record associated with the Entity.

(c) **Readmission Application fee.** This fee applies to individuals who are re-applying for their License or Registration to be reinstated for any reason, or changing from emeritus to active status. This fee does not apply to OAC 55:10-3-13 (b), Certificates of Authority or Certificates of Title.

SUBCHAPTER 5. APPLICATION AND ELIGIBILITY FOR LICENSING OR REGISTRATION

55:10-5-6. Active and inactive applications

Applications for examination for current ~~Architect or~~ Landscape Architect Candidates testing on the six (6) year time period shall remain active for the six (6) years examination period only. At the end of the six (6) year period, these

Candidates shall reapply as a new Candidate and begin testing under the five (5) year rolling clock. Candidates testing on the five (5) year rolling clock shall remain active for one (1) year ~~five (5) years~~ after the last examination section was passed. After one year from the last examination was taken, the Candidate must reapply. Interior Design Candidates shall remain active for one (1) year ~~five (5) years~~ after the last examination was taken and must reapply. Any Candidate experiencing physical disability, illness or other extenuating circumstances may request exemption or extension from the examination retention requirements. The individual shall provide supporting documentation for the Board's review. Such hardship cases will be considered by the Board on an individual basis. Incomplete applications are withdrawn after one (1) year and the Applicant will be required to reapply. Applicants and Candidates called to active military duty in the armed forces of the United States and deployed to a temporary military assignment, shall be exempt from the retention period for the duration of the temporary deployment under Section 55:10-7-1. Beginning July 1, 2009, all Architect Candidates shall test under the current and changing provisions set out by NCARB or modified by this Board in it's sole discretion.

55:10-5-7. Qualifications for an Architect License

(a) An Applicant for an initial License to practice architecture in Oklahoma shall be an individual of good moral character and not less than 21 years of age. Further, the Applicant shall have a professional degree from an NAAB accredited program in a school of architecture or an equivalent degree and provide evidence of acceptable training in architecture as noted in Section 55:10-5-4. The Board requires ~~three (3) years of acceptable training and~~ completion of the IDP program prior to licensing. The Board may accept an Architect who is Broadly Experienced with ten (10) years of acceptable experience and licensing who has also passed the NCARB examinations or its equivalent, as determined by the Board in its sole discretion and the Board's Act and Rules examination.

(b) The Board may, in its discretion, accept applications for an initial License to practice architecture from Applicants who are not graduates as required in Section 55:10-5-4, who furnishes evidence acceptable to the Board of having completed an equivalent educational and training program.

(c) All Applicants shall take and pass an examination on the Act and these Chapter 10 Rules, as well as pass NCARB's examination prior to receiving a License in the State.

55:10-5-8. ~~Qualification~~ Qualifications for a Landscape Architect License

(a) **General requirements.** An Applicant for an initial License to practice landscape architecture shall be an individual of good moral character and not less than 21 years of age.

(b) **Education and training requirements.** Applicants shall have a professional degree from a LAAB accredited program in a school of landscape architecture or an equivalent educational program and provide evidence of three (3) years of acceptable training credits as provided in Section 55:10-5-4 ~~prior to licensing~~ or as established by CLARB. The Board may accept a Landscape Architect who is Broadly Experienced with ten (10) years of acceptable experience and licensed in good standing who has passed the CLARB examinations or its equivalent, as determined by the Board in its sole discretion and the Board's Act and Rules examination.

(c) **Training credits.**

(1) Training credits may not be counted prior to completion of the third year of college or a pre-professional degree. Thirty-two (32) semester credit hours or forty-eight (48) quarter credit hours are considered to be one (1) year. Fractions of one-half or greater will be considered one-half year and smaller fractions will not be counted. To earn full training credits, an Applicant must work at least (32) to (35) hours per week for a minimum of two consecutive months. A Candidate may earn one-half the credit specified for work of at least fifteen (15) ~~to twenty (20)~~ hours per week for a minimum of four consecutive months. Training credits may also be earned by any person who works outside the U.S. or Canada if the person is under the Direct Supervision of a person credentialed to practice landscape architecture, architecture, engineering or planner and the supervising person is not registered in a U.S. or Canadian jurisdiction.

(2) Training credits are defined as follows:

(A) Diversified landscape architectural experience under the Direct Supervision ~~and Responsible Control~~ of a licensed Landscape Architect.

(i) 100% credit

(ii) No limit to credit

(iii) Practicing as a principal in good standing as a landscape architecture for six (6) years full time, shall be deemed to have satisfied the training requirement.

(B) Diversified landscape architectural experience under the Direct Supervision ~~and Responsible Control~~ of a licensed Architect, ~~or~~ engineer or credentialed planner in good standing.

(i) ~~75%~~100% credit

(ii) ~~No limit to credit~~ Two (2) years maximum credit

(C) Landscape architectural experience directly related to on site construction, maintenance, or installation operations.

(i) 50% credit

(ii) 1 year maximum credit

(D) Non-diversified experience in landscape architecture under the Direct Supervision of a licensed Landscape Architect, engineer, Architect or credentialed planner in good standing.

(i) 50% credit

(ii) One (1) year maximum credit

(d) **State Exams Required.** All Applicants shall take and pass an examination on the Act and these Rules as well as an examination on Oklahoma plant materials and CLARB's examination prior to receiving a License in the State.

55:10-5-10. Qualifications for Registration as an Interior Designer

(a) **General requirements.** All individuals applying for Registration as an Interior Designer shall:

(1) Obtain all required education and training prior to Registration.

(2) Hold an accredited professional degree in interior design accredited by the Council of Interior Design Accreditation or its successor, obtain two (2) years or 3,520 hours of acceptable training as defined by this Subsection and pass the examinations for Registration as an Interior Designer administered by NCIDQ or its successor; or

(3) Obtain an equivalent education to an accredited professional degree in interior design, as determined by the Board, obtain two (2) years or 3,520 hours of acceptable training and experience hours as defined by this Subsection and pass the examinations for Registration as an Interior Designer administered by NCIDQ or its successor; or

(4) Have been issued a valid Registration from another state, jurisdiction or foreign country provided the requirements for Registration are equivalent to the requirements of this state as determined by the Board; or

(5) Have a degree from a program accredited by CIDA or its successor. An applicant, who has completed the program within two (2) years of the program acquiring this accreditation, shall be considered to have obtained an accredited education program in interior design.

(b) **Equivalent education and defining training requirements.** The following education, training and experience may be considered to be equivalent to the requirements of OAC 55:10-5-~~9~~10(a) as determined by the Board in its sole discretion:

(1) A baccalaureate degree in programs of no less than 120 semester or 180 quarter passing credit hours of which 60 semester or 90 quarter hours, respectively, are interior design-related; and a total of no less than 3,520 hours of interior design acceptable training as defined herein;

(2) Certificate, degree or diploma with a minimum passing credit of 60 semester hours or 90 quarter passing credit hours respectively in interior design related coursework and obtain 5,280 hours of acceptable training; or

(3) Meet the educational standards set forth by the National Association of the Schools of Art and Design and other similar institutions provided the educational program has a minimum of 40 semester passing credit hours or 60 passing quarter credit hours in Interior Design related coursework and 7,040 hours of acceptable training.

(4) Thirty (30) passing semester hours from a Board approved program shall equal one (1) year of education towards the first accredited professional degree in interior design or its equivalent program.

(5) One (1) year of education credit hours from a Board approved program earned in an interior design program or its equivalent degree program shall equal two (2) years of acceptable training and experience.

(6) Four (4) years from a Board approved program shall be an equivalent standard for the first professional degree in interior design or its equivalent when computing the fifteen (15) years experience and training to equate towards the training and experience requirement in O.S. 59, Sections 46.39 through 46.40 of the Act.

(7) A second accredited professional degree in interior design or its equivalent shall count as one year of education for two (2) years of training and experience.

(8) The Board may accept an Interior Designer who is Broadly Experienced with ten (10) years of acceptable education and experience and registration who has passed the NCIDQ examinations or an equivalent examination as determined by the Board in its sole discretion and the Board's Act and Rules examination.

~~(8) Beginning July 1, 2007 through June 30, 2009, the Board may accept, in lieu of the requirement of any professional interior design degree, six (6) years of diversified and appropriate experience in interior design as defined by the Act and these Rules and has passed the examination of NCIDQ; or~~

~~(9) The Applicant is a licensed Architect. This exemption ends June 30, 2009.~~

(c) **Education content requirements.** Educational instruction shall include, but is not limited to, the following:

(1) Building and Interior Systems
(2) Business and Professional Practices, Management and Ethics
(3) Codes and Ordinances
(4) Basic and Creative Arts
(5) Color Theory
(6) Interior Design
(7) Technical Knowledge
(8) History and theory of Art, Architecture and Design
(9) Human Factors
(10) Lighting
(11) Materials and Finishes
(12) Communication Skills
(13) Furnishings

(d) **Training and experience categories.** Training and experience credits shall be awarded for work performed in the following areas:

(1) Programming
(2) Schematic Design
(3) Design Development
(4) Contract Documents
(5) Contract Administration
(6) Professional Practice

(e) **Training and experience requirements.** The Board may accept as evidence of diversified training and experience in interior design as stated in this Subsection:

(1) Applicants having obtained the first CIDA professional accredited degree in interior design or its equivalent shall have 2 years of acceptable training and experience hours, as determined by the Board in it's sole discretion. One year shall equal 1760 hours of training and experience. ~~One (1) hour of full time work will equal one (1) hour of credit.~~

(2) Applicants may earn one (1) year of training and experience hours after completing 96 semester passing

credit hours toward the first professional degree in interior design.

(3) On January 1, 2007, all individuals beginning their training and experience shall obtain credits after all educational requirements have been met for those individuals with equivalent education equating to the first accredited professional degree in interior design.

(4) Applicants with acceptable education and experience may take the examination to become an Interior Designer, regardless of the order in which each was obtained when training and experience requirements are met and if training began prior to January 1, 2007.

(5) Training and experience hours shall be awarded based on working full time for at least two (2) consecutive months with ~~thirty-five (35)~~thirty-two (32) hours per week or more in interior design or architecture. Part time training and experience hours shall be calculated at the rate of fifty percent (50%) for less than ~~thirty-five (35)~~thirty-two (32) hours per week and more than ~~twenty (20)~~fifteen (15) hours per week working for at least (4) consecutive months. Working less than ~~twenty (20)~~fifteen (15) hours per week will not qualify for training and experience hours. Two (2) years of full time acceptable training and experience under an Interior Designer or Architect offering services as interior design shall equal one (1) year of equivalent education in interior design.

(6) Applicants beginning their training and experience after January 1, 2008, shall be under the Direct Supervision ~~and Responsible Control~~ of a registered or licensed Interior Designer or a licensed Architect offering service as interior design. If the Interior Designer is not registered or licensed in a jurisdiction, then all work shall be under the Direct Supervision of an NCIDQ certificate holder.

(7) The Board, in its sole discretion, shall determine whether all education, training and experience for Applicants are acceptable or not and whether or not it satisfies the requirements for Registration.

(8) ~~Applicants obtaining full time training and experience hours obtained in a related field with a registered or licensed Interior Designer or a Licensed Architect offering services as interior design, shall be calculated at the rate of fifty percent (50%) and shall be limited to six (6) months of the total training and experience hours required by the Board until December 31, 2007 at midnight, when this category ceases.~~ If the Interior Designer is not registered or licensed in a jurisdiction, then all work shall be under the Direct Supervision of an NCIDQ certificate.

(9) Training and experience hours shall be submitted on the Board's forms or equivalent. It is the responsibility of the Applicant to obtain all required signatures. All Board forms are to be returned directly to the Board office by the employer, as they are confidential records.

(10) Training in a firm engaged in interior design outside the U.S. or Canada if you are under the Direct Supervision of a person credentialed in interior design or architecture, who is not registered in a U.S. or Canadian jurisdiction.

(f) **Grandfather requirements.** Any Applicant who submits a properly completed and acceptable application for Registration and pays all applicable fees ~~between July 1, 2007 and June 30, 2009~~ shall be issued a Certificate of Registration provided the requirements below have been met:

(1) An Applicant has submitted evidence of education and training the Board deems equivalent to an accredited professional degree in interior design, satisfied training requirements, if applicable and has passed the examinations administered by NCIDQ or its successor; or

~~(2) The Applicant has submitted evidence of six (6) years of diversified and acceptable training and experience hours prior to July 1, 2009, and the Board has determined and accepted such evidence as meeting these requirements and has passed the examinations administered by NCIDQ or its successor; or~~

~~(3) The Applicant is a licensed Architect.~~

(~~4~~2) Without limitation to application deadlines, an Applicant may apply who has obtained fifteen (15) years of diversified and acceptable training and experience in the practice of interior design as determined by the Board prior to July 1, 2007, and the Applicant is not registered under this Act and not exempt from the requirements for Registration in order to use the title "Interior Designer" and provide services as interior design. The Applicant shall be exempt from passing the NCIDQ examinations and fulfilling any additional education or training requirements as determined by the Board. The Applicant may use any combination of education, training and experience as acceptable and determined by the Board to equate to the fifteen (15) years experience. Thirty (30) passing education hours equals one (1) education credit year used toward obtaining the first accredited professional degree in interior design or an equivalent degree as determined by the Board or may equal two (2) years of diversified and appropriate experience when calculating the required fifteen (15) years experience. Additionally, the Applicant obtaining a second accredited professional degree in interior design or an equivalent degree as determined by the Board may use this education in addition to other education or training.

(g) **Exemption from Registration.** An individual holding a current Architect License is exempt from Registration to offer services as interior design, describe services and has the right to use the term interior design. ~~In order to be eligible to use the term Interior Designer, the Architect shall obtain Registration, but shall be exempt from education, training and testing requirements for Interior Designers through June 30, 2009.~~

55:10-5-11. Changing resident state and applying for a Reciprocal License or Registration

(a) All individuals applying for a reciprocal License or Registration shall satisfy the requirements contained in the Act and these Rules and submit an acceptable and complete application for the License or Registration requested and enclose the necessary fees payable by check, cashier's check, money order, credit card, if applicable or certified funds when submitted. Prior to being issued a License or Registration, all Applicants shall take and pass an examination on the Act and these Rules. The Secretary-Treasurer shall have the power at

his/her discretion, to approve all reciprocal applications that meet the statutory requirements of the Act and Rules in this Chapter without full Board action. The License or Certificate of Registration will follow at a later date.

(b) A License certificate shall be issued and will authorize the individual to engage in the practice of architecture or landscape architecture and use the title Architect or Landscape Architect in this state until the 30th day of June of the biennial License period. A Certificate of Registration shall be issued and will authorize the individual to use the title Interior Designer or offer services as interior design until the 30th day of June of the biennial Registration period. No License or Certificate of Registration shall be issued for longer than two (2) years.

(c) Any reciprocal License or Registration which is denied, suspended, revoked or refused to be renewed, by any state in which the Licensee or Registrant has obtained a License or Registration, or in which a certification is withdrawn by NCARB, CLARB or NCIDQ shall be cause to suspend, revoke or refuse to renew the License or Registration by this Board.

(d) The Licensee or Registrant may change the resident state to Oklahoma by qualifying and applying for a transfer of the individual's official records to this Board and paying all applicable fees in 55:10-3-13.

(e) Applications for an architectural License by reciprocity shall comply with (a) of this Section and be through NCARB or directly through the Board and only to those individuals whose states have similar requirements and equivalent standards and extend the same privilege to this state's Applicants. Upon approval, a letter confirming the individual's qualifications will be sent and the Board will assign a License number.

(f) Applications for a Landscape Architect License by reciprocity will be through submission of a CLARB record or directly through the Board, complying with (a) of this Section and showing licensure by the UNE or the LARE in any other state, country or territory whose requirements for licensing are at least equivalent to the requirements of this state and extend the same privilege of reciprocity to Landscape Architects licensed in this state. The Applicant shall be required to pass an examination on Oklahoma plant material. Upon approval, a letter confirming the individual's qualifications will be sent and the Board will assign a License number.

(g) Applications for an Interior Design Registration by reciprocity shall comply with (a) of this section through submission of an NCIDQ record or directly through the Board and only to those individuals whose states have similar requirements and equivalent standards and extend the same privilege to this state's Registrants. Upon approval, a letter confirming the individual's qualifications will be sent and the Board will assign a Registration number.

(h) Rejections of applications for a License or Registration by reciprocity will be by letter explaining the reasons, and outlining procedures under which reconsideration may be possible.

SUBCHAPTER 7. EXAMINATION

55:10-7-1. Examination required for Candidates

(a) Approved Candidates for initial ~~Architect and~~ Landscape Architect licensing shall individually appear and pass the required examinations. Candidates may take any section of the examinations that has not been previously passed. After June 30, 1999, current Candidates shall have a six (6) year time frame to pass all sections of the examination. Any Candidate failing to obtain a passing score on all sections of the examinations within the six (6) year period, shall forfeit all credits for all section(s) of the examinations previously passed. These Candidates shall re-apply as a new Candidate after their six (6) year testing period ends and begin testing under the new five (5) year rolling clock.

(b) Beginning July 1, 2007, all new Candidates for licensing as ~~Architects and~~ Landscape Architects shall begin on a five (5) year rolling clock. The clock begins from the date the Candidate passes the first section. The passing grade for any section shall be valid for five (5) years only, after which time the section shall be retaken if the remaining sections have not been passed within the five (5) year period. If a Candidate fails to pass all remaining sections within the initial five (5) year period, the Candidate is given a new five (5) year period from the date of the second oldest passed section and so on. After passage of all sections of the examinations within five (5) years, and prior to licensing, all Candidates shall take and pass an examination on the Act and these Rules. In addition, Landscape Architect Candidates shall take and pass an examination on Oklahoma plant materials prior to licensing.

(c) Beginning July 1, 2009, all Architect Candidates shall individually appear and pass the required examinations and retain or forfeit grades according to the current policies and procedures adopted by NCARB and this Board.

(~~c~~d) Candidates for Registration as Interior Designers shall be required to take and pass the NCIDQ examination on interior design, unless exempt by the Act. Candidates shall submit a properly completed and acceptable application, documentation and applicable fees to the Board. Evaluation and determination of qualifications prior to beginning testing shall be determined by the Board in its discretion according to current NCIDQ standards, the Act and these Rules. Upon approval by the Secretary-Treasurer of the Board or by the Board, NCIDQ and the Candidate shall be notified of the Board's decision for entrance into the examination. Upon completing the examination, the Candidate shall contact NCIDQ and have them send a letter to the Board indicating the Candidate has passed the entire examination. Prior to Registration, the Candidate shall take and pass an examination on the Act and these Rules. Upon payment of the Registration fee and properly completed and acceptable updating of the application, the Board may issue the Registration.

(~~d~~e) Any Candidate on active military duty deployed to a temporary military assignment, shall be exempt from the retention period for the duration of the temporary deployment and is allowed to carry forward all passing scores into the individual's current examination cycle, as if the person had not been deployed. In order to qualify for this exemption, the Candidate shall submit military documentation of the deployment to the Board office and the staff shall place the Candidate on

military active status. Upon return from the temporary military deployment, the Candidate shall submit to the Board office within ~~thirty~~ ninety (90) days, military documentation that the individual has returned from deployment. The Candidate shall then be returned to regular active status for examination without losing any credits for sections passed in the current examination cycle.

(f) A Candidate shall not forfeit any examination time or passing score in the current testing cycle if the Board has granted an extension of time to take the examinations due to a hardship. All current passing scores in the current testing cycle will be carried into the extended time.

(g) All Candidates failing to appear for examination one year after being approved to start testing are required to reapply for admission to the examinations, except for those Candidates on temporary military deployment, who are exempt under 55:10-7-1 or those persons granted a hardship by the Board.

55:10-7-3. Examination

Examinations offered may be developed by NCARB, CLARB or NCIDQ, developed and approved for administration on specified dates. Landscape Architect Candidates and reciprocal Applicants shall, in addition to other CLARB testing materials, be tested upon their knowledge of Oklahoma plant material. All Applicants shall~~, after completing all other required examinations,~~ take and pass an examination on the Act and these Rules prior to being licensed or registered in the state.

55:10-7-6. Grading

Exams will be graded and scored generally in accordance with NCARB, CLARB or NCIDQ procedures except as directed by the Board. Minimum passing scores are adopted as recommended by NCARB, CLARB or NCIDQ. Minimum passing scores on the landscape architectural plant material and the Act and Rules examinations shall be 75%. Examination Candidates will pass or fail in accordance with the current NCARB, CLARB or NCIDQ grading procedures.

55:10-7-7. Reexamination

(a) ~~Prior to June 30, 1999, the Board shall allow unlimited opportunities to retake the architectural and landscape architectural examinations previously failed according to Section 55:10-7-1. After June 30, 1999, currently testing Architect and Landscape Candidates shall have six (6) years from the first sitting for the examination to pass all sections of the examination. Any Candidate failing to obtain a passing score on all sections of the examination within the six (6) year period shall forfeit all credits for any section(s) of the examination previously passed. Candidates failing to appear for reexamination within the six (6) year period shall forfeit all section(s) of the examinations previously passed and shall re-apply for admission to the examinations as a new Candidate, except for those Candidates on temporary military deployment, who are exempt under 55:10-7-1.~~ Candidates shall reapply to continue testing if their application was placed on inactive status except for those Candidates on temporary military deployment or the Board has granted an extension of their time to take the examinations due to a hardship. This consists of filing a new updated application and paying the fees which may be processed by the Board's staff without Board approval.

(b) Beginning July 1, 2007, all new Candidates for licensing as ~~Architects and~~ Landscape Architects shall begin on the five (5) year rolling clock, as described in 55:10-7-1 and shall continue to retest under those provisions until the entire sections of the examinations have been passed within the five (5) year period. If a Candidate fails to pass all remaining sections within the initial five (5) year period, the Candidate is given a new five (5) year period from the date of the second oldest passed section and so on. No passing score is valid for longer than five (5) years. ~~New Candidates failing to appear for reexamination within the five (5) year rolling clock and allowing all grades to expire over five (5) years old, shall forfeit all credits for parts passed and are required to reapply for admission to the examinations, except for those Candidates on temporary military deployment, who are exempt under 55:10-7-1. Interior Design Candidates shall be permitted to retest according to the guidelines of NCIDQ.~~

(c) Interior Design Candidates shall be permitted to retest according to the guidelines of NCIDQ.

55:10-7-9. Transfers of examination grades prior to licensing

(a) **Outgoing transfers.** The Board staff, upon written request by the Candidate and payment of the file transfer fee, will transfer final or valid examination grades given under the Board's jurisdiction to any other duly constituted Architect, Landscape Architect or Interior Design boards and to NCARB, CLARB or NCIDQ for use in evaluating such Applicant's eligibility for licensing or Registration as applicable. A transfer to another board shall immediately terminate the Applicant's application with this Board.

(b) **Incoming transfers.** The Board, in its sole discretion, may or may ~~will~~ not accept, toward obtaining an initial License or Registration, scores on separate test sections taken in other states by Candidates who did not meet Oklahoma requirements for admission to the exams at the time the exams were taken.

SUBCHAPTER 9. LICENSING AND REGISTRATION

55:10-9-11. Reinstatement of a License or Registration based on cause

A License or Registration suspended, refused to be renewed, penalties levied, orders issued or revoked for cause, may be reinstated only by Board action and only then in the manner determined by the Board. Request for reinstatement may be filed by re-applying, paying a readmission application fee after all appeals have been exhausted and the further passage of six (6) months. The request shall show the Board that the public interest will not suffer by reason of the reinstatement and should be addressed to the Secretary-Treasurer at the

Board office. The Board has the sole discretion as to whether to reinstate the License or Registration, deny the reinstatement and require the payment of all back fees, penalties and meet continuing education requirements if applicable.

SUBCHAPTER 11. RULES OF PROFESSIONAL CONDUCT

55:10-11-7. Professional conduct

An Architect, Landscape Architect or Entity shall preserve the confidences of the client or employer. A Licensee or Entity may make contributions of service or anything of value to those endeavors which he/she/it deems worthy. A Licensee or Entity has the right to participate in the political process and to contribute time and money to political campaigns. In making political contributions, the Licensee or Entity shall do so publicly.

(1) Each office in Oklahoma maintained for the preparation of drawings, specification, reports or other professional work shall have a Licensee in that office having Direct Supervision ~~and being in Responsible Control~~ of ~~such~~ the work.

(2) A Licensee shall not sign or seal drawings, specifications, reports or other professional work for which he/she does not have ~~Direct Supervision and is in~~ Responsible Control. Provided, however, that in the case of the portions of such professional work prepared by the Licensee's licensed consultants, licensed under this or another professional license in Oklahoma, the Licensee may dually sign and seal that portion of the professional work if the licensed Architect or Landscape Architect has additionally coordinated its preparation and intends to be responsible for its adequacy.

(3) A Licensee or Entity shall neither offer nor make any gifts, other than gifts of nominal value including, for example, reasonable entertainment and hospitality, with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the Licensee or Entity is interested. Intent of influence means influence, direct or indirect, which induces or tends to induce consideration or action with respect to any prospective work on any basis other than the merits of the matter.

(4) A Licensee or Entity shall not engage directly or indirectly an agent or representative to solicit work on his/her/its behalf whose compensation is contingent, in whole or in part, upon obtaining professional work for the Entity, Architect or Landscape Architect.

(5) A Licensee or Entity shall not make false statements about the professional work, or maliciously injure or attempt to injure the prospects, practice or employment position of others.

(6) A Licensee or Entity shall not furnish limited services in such a manner as to enable owners, draftsmen, or others to evade public health and safety requirements.

(7) A Licensee or Entity provides a service to the client, as well as a product and as such is only responsible for the design of the facility represented by the drawings he or she signed, sealed and dated for a specific client and location. Should the client or any other individual modify or change locations of the facility or make changes to the design without the authorization of the Licensee, the Licensee is only responsible and liable for the project as he/she signed, sealed and dated it and the site at the original location. Nothing contained herein shall apply to prototype plans, where the Licensee is allowed to review and adapt a plan already sealed by the original Licensee and the current Licensee is making changes to adapt in whole or in part to a different location and bring the plan up to the current code requirements. In this case, the Licensee is required to sign, seal and date only the changes to the original documents and shall only be responsible for his/her new changes.

55:10-11-9. Authorized use of seal

(a) **Seal declares authorship.** The seal appearing on any technical submission shall be a prima facie evidence in 55:10-15-1 that said technical submission was prepared by or under the individual named on said seal. Changes made to a signed, sealed and dated end of point product or service that are not designed by the original Licensee and that are not authorized or indicated by the seal of another Licensee on the changes, exempts the original Licensee from any authorship or liability concerning any changes made, including making site changes without the knowledge of the Licensee.

(b) **Location of seal, signature and date.** The seal impression or image shall be across the signature that may be generated electronically of the Licensee responsible to this Board for authorship of the documents thus identified. The handwritten or generated date the signature is affixed shall accompany the signature.

(c) **Use of seal is individual act.** Authorized use of the prescribed seal is an individual act. The Licensee is responsible for its security when not in use.

(d) **Use or attempted use of seal by unauthorized individuals.** No individual, other than the Licensee represented, shall use or attempt to use the prescribed seal, and no unregistered individual or Entity shall be authorized to use the prescribed seal, except as described in (c) above. Use, reproduction, distribution or attempted use of the seal shall include using a set of construction documents to construct a structure on another site without the permission of the original Licensee or making unauthorized copies, changes or incorporating any portion of the specifications into another work without the use of a Licensee's seal, signature and date authorizing such changes. Prototype building plans shall carry the seal, signature and date of the original Licensee, but may be used at other locations~~, as an intended use~~ complying with OAC 55:10-11-9 (e) (f).

(e) **Entire Contract.** Any licensed Architect or Landscape Architect preparing documents that would be considered to fulfill an entire contract with a client being the end point of service, whether or not the plans are complete, shall sign, seal and date those documents. The Licensee may add any words on the documents that he/she/it chooses to indicate an incomplete document and not for construction notice.

(f) **Technical submissions.** Architects and Landscape Architects are permitted to review and adapt portions of technical submissions if:

(1) the seal of the original Architect or Landscape Architect appears on the submissions to authenticate authorship.

(2) the succeeding Architect or Landscape Architect clearly identifies all modifications to the submissions.

(3) the succeeding Architect or Landscape Architect assumes responsibility and liability for the adequacy of the design on the modifications.

55:10-11-10. Required use of seal, signature and date on documents and retention period

(a) All Licensees shall affix their seal, signature and date to all original working drawings, and to the original cover sheet and the page identifying all specification pages covered, including all addenda and field changes.

(b) In the absence of sheets or covers identifying all sheets or pages bound, all original contract documents of service must have the seal, date and signature of the Licensee responsible ~~and the date prepared affixed thereto~~. In addition, the Licensee shall identify on the page or covers of sheets or pages bound, by name and License number, the consultants used on the project and the sections the consultants worked on.

(c) An Architect, Landscape Architect or Entity shall retain a copy of all technical submissions produced for a minimum of fifteen (15) years following the date of preparation. Should the submissions be retained by electronic means, all submissions shall be updated into current versions so they are accessible at all times and can be printed out in a legible format.

55:10-11-12. Prohibited use of seal

(a) **Prohibition on sealing documents.** No Licensee shall affix or attempt to affix the seal, signature or date to sketches, working drawings, specifications or other documents developed by unlicensed persons that are not employees in their offices or professional consultants ~~others not under the Direct Supervision and being in Responsible Control and not subject to the authority of that Licensee in critical, professional judgments,~~ except as stated in OAC 55:10-11-9 (e) (f).

(b) **Prohibited acts using seal.** No Licensee shall affix the seal, signature or date to documents unless:

(1) such documents were developed and prepared under ~~the~~ a Licensee's Direct Supervision ~~and~~ or Responsible Control;

(2) the Licensee had full authority to determine their development; and

(3) the Licensee has reviewed and adopted, in whole or in part, architectural or landscape architectural portions and has either coordinated their preparation and integrated them into the work.

SUBCHAPTER 13. ORGANIZATIONAL PRACTICE

55:10-13-2. Licensee required in each office

Each Entity in the state where architectural or landscape architectural services are offered or performed for execution in Oklahoma shall have a current Oklahoma licensed Architect or Landscape Architect in Direct Supervision ~~and being in Responsible Control~~ who is listed on the Certificate of Authority as an Architect of Record.

55:10-13-5. Establishing criteria for issuance of Certificate of Authority or Certificate of Title

The Board may grant a Certificate of Authority to practice architecture or landscape architecture through individual Licensees or a Certificate of Title to represent the person as an Interior Designer or to offer services as interior design through Registrants to those firms meeting the following criteria:

(1) An application is filed and approved by the Secretary-Treasurer of the Board or the Board.

(2) At least one general partner, or director, officer, shareholder, manager, member or principal is a licensed Architect or Landscape Architect and designated as being responsible for the practice of the profession in the State of Oklahoma or is registered as an Interior Designer offering services of interior design and responsible for the Entity. If a firm is offering multiple professions, the firm shall have at least one general partner, director, officer, shareholder, principal or for a limited liability company, a manager or member who is licensed or registered in each profession and is designated as being responsible for the activities of each profession.

(3) The firm's practice of architecture or landscape architecture in any office (e.g. branch office) is under the Direct Supervision ~~and Responsible Control~~ of a licensed Architect or Landscape Architect and such individual supervises its activities and is listed in the Certificate of Authority as an Architect of Record.

(4) All technical submissions, original working drawings, original cover sheet and the page identifying all specification pages covered, all addenda and field changes shall be signed, sealed and dated by an Architect of Record defined in 55:10-1-3.

(5) The Certificate of Authority or the Certificate of Title shall identify the individual(s) Oklahoma licensed Architect(s) or Landscape Architect(s) or registered Interior Designer(s), who shall be an Architect of Record or an Interior Designer of Record and in responsible charge of the professional activities of the Entity; and

(6) Compliance with the Board's Rules in this Chapter and the Act shall not alleviate other members, officers, shareholders, managers, principals, directors, partners or employees from direct responsibility and liability by reason of employment or relationship with the Entity to the Board.

(7) The Certificate of Authority or Certificate of Title issued by the Board is subject to powers of renewal, suspension, revocation, denial, refusal to renew, levying criminal or civil penalties, vested in the Board by the Act

and does not preclude the Board from using any other legal procedures necessary to carry out its powers and duties.

(8) A duplicate Certificate of Authority or Certificate of Title may be issued to an Entity provided:

(A) the current License or Registration renewal of the Architect(s) of Record or the Interior Designer(s) of Record is current and ~~active~~in good standing and the Certificate of Authority or Certificate of Title is current and ~~active~~in good standing;

(B) a written request for a replacement or duplicate Certificate of Authority or Certificate of Title is received; and

(C) the fee is paid as prescribed in 55:10-3-13.

55:10-13-20. Use of fictitious name in title of firm name

Fictitious names of firms are permissible so long as at least one Architect of Record or Interior Designer of Record as defined in 55:10-1-3, has Direct Supervision ~~and is in Responsible Control~~ for the activities of the firm and the individual's name appears on all stationary, business cards and similar items. Example:

The Gold Star Group

Architects & Engineers

John Brown, Architect

SUBCHAPTER 15. VIOLATIONS

55:10-15-2. Grounds for violations and penalties

Grounds for probation, denial, revocation, suspension, refusal to renew, orders, injunctions, civil and/or criminal penalties are as follows:

(1) Fraud, deception or misrepresentation in applying for a License, Registration, Certificate of Authority, Certificate of Title or in taking the examinations (see 55:10-15-4);

(2) Noncompliance with statutory requirements or Rules in this Chapter for qualifying for a License or Registration;

(3) Violating the Act or any Rule in this Chapter, regulation or order issued by the Board;

(4) Conviction of a felony;

(5) Violating any other jurisdiction's registration or licensing laws, requirements or rules and regulations;

(6) Mental impairment;

(7) Gross incompetence (see 55:10-15-5);

(8) Recklessness on the part of the Licensee in designing, planning or observing the construction or alteration of a project or building (see 55:10-15-6);

(9) Dishonest practice (see 55:10-15-7);

(10) Failure to maintain a License or Registration in good standing in one additional jurisdiction for reciprocal Licensees or Registrants;

(11) Loss of NCARB, CLARB or NCIDQ certification for reciprocal Licensees or Registrants based on cause;

(12) Nonpayment of fees, penalties, failure to complete continuing education requirements, when applicable, or failure to file acceptable and properly completed required documents with the Board will result in automatic revocation;

(13) Unauthorized or misuse of seal which shall include sealing, dating and signing any or all documents not prepared under ~~the~~ a Licensee ~~Licensee's Direct Supervision and Responsible Control~~. Prototype plans are an exception to this Rule as noted in OAC 55:10-11-9 (e) (f).

(14) Aiding and/or abetting unlicensed practice of architecture or landscape architecture.

(15) Sealing, signing and/or dating plans and/or specifications not prepared in accordance with the Act and/or these Rules.

(16) Giving false or forged evidence or documents submitted to the Board or generated in the practice of architecture or landscape architecture.

(17) Presenting the License or Registration of another as the individual's or Entity's own.

(18) Concealing information relative to any violation of the Act or the Board's Rules.

55:10-15-10. Informal resolution

Those matters in which informal resolution is sought may be referred to the investigative committee or terminated as provided in OAC 55:10-15-9. Any final disposition of a violation by the Secretary-Treasurer must be reported to and approved by the Board or approved by Counsel to the Board.

[OAR Docket #09-477; filed 3-25-09]

TITLE 155. OKLAHOMA CONSERVATION COMMISSION
CHAPTER 1. OPERATION OF THE COMMISSION

[OAR Docket #09-443]

RULEMAKING ACTION:

PERMANENT final adoption

PROPOSED RULES:

155:1-1-1 [AMENDED]
155:1-1-2 [REVOKED]
155:1-1-3 [AMENDED]
155:1-1-4 [AMENDED]
155:1-1-5 [AMENDED]
155:1-1-6 [REVOKED]
155:1-1-7 [REVOKED]
155:1-1-8 [REVOKED]
155:1-1-9 [REVOKED]
155:1-1-10 [AMENDED]
155:1-1-11 [REVOKED]
155:1-1-12 [REVOKED]
155:1-1-13 [REVOKED]
155:1-1-14 [REVOKED]

AUTHORITY:

Oklahoma Conservation Commission; 27A O.S. §3-1-101 et seq. and 3-2-101 et seq.

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Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009.
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April 25, 2009
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
These rules are necessary to implement the provisions of the Conservation District Act. The purpose of the proposed rules is to provide the structure of the Conservation Commission and its daily operations.
CONTACT PERSON:
Ben Pollard, Assistant Director, Oklahoma Conservation Commission, 2800 N. Lincoln, Suite 160,Oklahoma City, Oklahoma 73105, (405)521-2384, FAX(405)521-6686 or via electronic mail at ben.pollard@conservation.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 25, 2009:

155:1-1-1. Purpose

This Chapter was adopted to set forth the operation provisions of the ~~Oklahoma Conservation~~ Commission as prescribed by the Conservation District Act. ~~The operation procedures of the Commission shall include:~~

~~(1) the general provisions which include this purpose Section and the following Section 155:1-1-2 which sets out the definitions of this Chapter;~~
~~(2) appointment and tenure of members;~~
~~(3) qualifications of Commission members;~~
~~(4) time and place of meetings;~~
~~(5) funds of the Conservation Commission office;~~
~~(6) the Commission's authority to hire;~~
~~(7) selection of Commission members for office;~~
~~(8) powers, duties and authority of the Commission;~~
~~(9) location of the Commission;~~
~~(10) public inspection of Commission law;~~
~~(11) procedures for rules and regulations promulgated;~~
~~(12) appropriated funds for bonds;~~
~~(13) report of annual audit; and~~
~~(14) distribution of newsletter.~~

155:1-1-2. Definitions [REVOKED]

~~The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:~~

~~**"Agency of this state"** means the government of this state and any subdivision, agency or instrumentality, corporate or otherwise, of the government of this state.~~

~~**"Commission"** means the Oklahoma Conservation Commission as created by the Conservation District Act.~~

~~**"Conservation"** means conservation, development, improvement, maintenance, preservation, protection and wise use of land, water and related natural resources; the control and prevention of floodwater and sediment damages; and the disposal of excess surface waters.~~

~~**"Cost-Share program"** means the assumption by the state of a proportional share of the cost of installing conservation structures, conservation practices or best management practices on lands for public and environmental benefits.~~

~~**"Director"** means a member of the governing body of a Conservation District, elected or appointed.~~

~~**"District"** or **"Conservation District"** means a governmental subdivision of this state, and a public body corporate and politic.~~

~~**"District cooperator"** means any person that has entered into a written cooperative agreement with a Conservation District created by the Conservation District Act for the purpose of protecting, conserving and practicing wise use of the renewable natural resources under his or her control.~~

~~**"Due notice"** means a notice to be in conformance with the Administrative Procedures Act is to be published at least twice, with an interval of at least seven (7) days between the two publication dates, in a newspaper or other publication of general circulation within the District, or if no such publication of general circulation is available, by posting at five (5) conspicuous places within the District. Such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates.~~

~~**"Farming"** and/or **"ranching"** means an individual who owns or operates a farm or ranch, whether he be an owner in fee, a lessee or any arrangement wherein that individual has control over how the land is used during any particular season. Further, an individual who leases or otherwise allows control of his farm or ranch to pass to another shall be considered to be practicing farming or ranching if he receives an increment of the income of such operation other than rent or lease payments. Such increment, no matter how small, shall suffice.~~

~~**"Government"** or **"governmental"** means the government of this state, the government of the United States, and any subdivision, agency or instrumentality, corporate or otherwise, of either of them;~~

~~**"Nonpoint source"** shall have the same meaning as such word is defined by the Oklahoma Environmental Quality Act;~~

~~**"Regulations"** means a rule or order prescribed for management of government; a regulating principle.~~

~~**"Renewable natural resources"**, **"natural resources"** or **"resources"** means land, soil, excess surface water, vegetation, trees, natural beauty, scenery and open space.~~

~~**"Rules"** means any agency statement of applicability and future effect that implements, interprets or prescribes substantive law or policy or prescribes the procedure or practice requirements of the agency.~~

~~**"State"** means the State of Oklahoma;~~

~~**"United States"** or **"Agencies of the United States"** means the United States of America, and any department, agency or instrumentality of the federal government.~~

155:1-1-3. Appointment and tenure of members

The Oklahoma Conservation Commission, hereinafter designated "Commission," is comprised of five (5) members appointed by the Governor and subject to confirmation by the Senate for a five (5) year term. One appointment is made from each of the following designated areas of the State derived from the following Conservation Districts:

(1) area 1 - Alfalfa County, Beaver County, Blaine County, Central North Canadian River, Cimarron County, Cimarron Valley, Dewey County, East Canadian County, East Woods County, Ellis County, Garfield County, Grant County, Harper County, Kingfisher County, Major County, Texas County, Woods County, Woodward County;

(2) area II - Arbuckle, ~~Arkansas River Kay County,~~ Cleveland County, Garvin, Kay County, Konawa, Lincoln County, Logan County, Love County, McClain County, Murray County, Noble County, Oklahoma County, Pawnee County, Payne County, Seminole County, Shawnee~~, Western Kay County~~;

(3) area III - Adair County, Caney Valley, Cherokee County, Craig County, Creek County, Delaware County, Mayes County, Muskogee County, Nowata County, Okmulgee County, Osage County, Ottawa County, Rogers County, Sequoyah County, Tulsa County, Wagoner County;

(4) area IV - Comanche County, Cotton County, Custer County, Deer Creek, Grady County, Greer County, Harmon County, Jackson County, Jefferson County, Kiowa County, Mountain View, North Caddo, North Fork of Red River, South Caddo, Stephens County, Tillman County, Upper Washita, Washita County, West Caddo; and

(5) area V - Atoka County, Bryan, Checotah, Coal County, Haskell County, Hughes County, Johnston County, Kiamichi, Latimer County, LeFlore County, Little River, Marshall County, McIntosh County, Okfuskee County, Pittsburg County, Pontotoc County, Pushmataha, Talihina, Valliant.

155:1-1-4. Qualifications of Commission members

(a) Three of said Commission members shall be actively engaged in the practice of farming and/or ranching. If ~~an individual during his tenure as~~ a Commission member disposes of all ~~his~~ farming and/or ranching operations during the term of office, these rules shall not be deemed to be retroactive as to that individual, and ~~he~~ the individual shall continue as a Commission Member until ~~his~~ the term expires, but shall not be eligible for reappointment as one of the three (3) Commission members in the farming and/or ranching category, but will be eligible for reappointment in the other two (2) positions.

(b) Each member shall be a ~~Conservation~~ District Director.

(c) Each member shall be a resident of the area he/she represents.

155:1-1-5. Commission Meetings

~~(a)~~ ~~**Time and place.**~~ The Commission shall meet monthly on the date, time and location as filed each year with the Office of the Secretary of State and in accordance with the Open Meeting Act. ~~at the Commission office in the Agriculture Building in Oklahoma City, Oklahoma, or such other place as designated by said Commission. Notice of the next monthly meeting shall be given on request to any individual. All meetings are open to the public.~~

~~(b)~~ ~~**Agenda.**~~ ~~At the Commission monthly meeting, the following shall be the order of the business:~~

~~(1) minutes of the previous meeting;~~

~~(2) appointment of Directors of Conservation Districts, if any;~~

~~(3) resignation of Directors of Conservation Districts, if any;~~

~~(4) re-appointment of Directors of Conservation Districts, if any;~~

~~(5) claims by the Conservation Districts from the Commission's budget for the Conservation Districts;~~

~~(6) claims of the Commission and staff;~~

~~(7) financial statements of the Commission;~~

~~(8) old business;~~

~~(9) new business;~~

~~(10) interested visitors heard;~~

~~(11) adjournment.~~

155:1-1-6. Appropriations [REVOKED]

~~The Commission through its Director and staff shall handle the funds that have been set aside for the Districts at the Commission office. The Commission yearly appropriation is based upon proposed budgets submitted to the Commission at the end of the year. The Commission adds an amount for Commission administrative expenses.~~

155:1-1-7. Executive Director, technical experts and employees [REVOKED]

~~The Commission has the authority to hire an Executive Director, technical experts and other employees it needs to operate efficiently.~~

155:1-1-8. Commission officers; compensation of members [REVOKED]

~~The Commission shall annually select from among its members a Chairman, Vice Chairman and Secretary Treasurer. The Chairman and members of the Commission receive no salary, but do receive per diem, actual traveling and~~

~~subsistence expenses necessarily incurred in the performance of their duties in accordance with laws pertaining to state employees.~~

155:1-1-9. Powers, duties and authority of the Commission [REVOKED]

~~The Commission has the following powers, duties and authority:~~

~~(1) to offer such assistance as may be appropriate to the Directors of Conservation Districts in the carrying out of any of their powers and programs; to assist and guide Districts in the preparation and carrying out of the programs for resource conservation authorized under the Conservation District Act; to review District programs; to coordinate the programs of the several Districts and resolve any conflicts in such programs; to facilitate, promote, assist, harmonize, coordinate and guide the resource conservation programs and activities of Districts as they relate to other special purpose districts, counties, and other public agencies;~~

~~(2) to keep the Directors of each of the several Districts informed of the activities and experience of all other Districts organized hereunder, and to facilitate an interchange of advice and experience between such Districts and cooperation between them;~~

~~(3) to review agreements, or forms of agreements, proposed to be entered into by Districts with other Districts or with any state, federal interstate, or other public or private agency, organization or individual, and advise the Districts concerning such agreements or forms of agreements;~~

~~(4) to secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of such Districts and to accept donations, grants gifts, and contributions in money, services or otherwise from the United States or any of its agencies or from the state or any of its agencies in order to carry out the purposes of the Conservation District Act;~~

~~(5) to disseminate information throughout the state concerning the activities and programs of the Conservation Districts; to make available information concerning the needs and the work of the Conservation Districts and Commission to the Governor, the Legislature, executive agencies of the government of this state, political subdivisions of this state, cooperating federal agencies and the general public;~~

~~(6) to serve along with Conservation Districts as the official state agencies for cooperating with the Soil Conservation Service of the United States Department of Agriculture and carrying on conservation operations within the boundaries of Conservation Districts as created under the Conservation District Act;~~

~~(7) to cooperate with and give such assistance as they deem necessary and proper to conservancy districts, watershed associations and other special purpose districts in the State of Oklahoma for the purpose of cooperating with the United States through the Secretary of Agriculture in the furtherance of conservation pursuant to the provisions of the Watershed Protection and Flood Prevention Act, as amended;~~

~~(8) to recommend the inclusion in annual and longer term budgets and appropriation legislation of the State of Oklahoma of funds necessary for appropriation by the Legislature to finance the activities of the Commission and the Conservation Districts; to administer the provisions of any act hereafter enacted by the Legislature appropriating funds for expenditure in connection with the activities of Conservation Districts; to distribute to Conservation Districts funds, equipment, supplies and services received by the Commission for that purpose from any source, subject to such conditions as shall be made applicable thereto in any state or federal statute or local ordinance making available such funds, property or services; to issue regulations establishing guidelines and suitable controls to govern the use by Conservation Districts of such funds, property and services; and to review all budgets, administrative procedures and operations of such Districts and advise the Districts concerning their conformance with applicable laws and regulations;~~

~~(9) to enlist the cooperation and collaboration of state, federal, regional, interstate, local, public and private agencies with the Conservation Districts; and to facilitate arrangements under which the Conservation Districts may serve county governing bodies and other agencies as their local operating agencies in the administration of any activity concerned with the conservation of renewable natural resources;~~

~~(10) pursuant to procedures developed mutually by the Commission and federal, state and local agencies that are authorized to plan or administer activities significantly affecting the conservation of renewable natural resources, to receive from such agencies for review and comment suitable descriptions of their plans, programs and activities for purposes of coordination with District conservation programs; to arrange for and participate in conferences necessary to avoid conflict among such plans and programs, to call attention to omissions and to avoid duplication of effort;~~

~~(11) to compile information and make studies, summaries and analyses of District programs in relation to each other and other resource conservation programs on a statewide basis;~~

~~(12) except as otherwise assigned by law, to carry out the policies of this state in programs at the state level for the conservation of the renewable natural resources of this state and to represent the state in matters affecting such resources;~~

~~(13) to assist Conservation Districts in obtaining legal services from state and local legal officers;~~

~~(14) to require annual reports from Conservation Districts, the form and content of which shall be developed by the Commission in consultation with the District Directors;~~

~~(15) to establish by regulations, with the assistance and advice of the State Auditor and Inspector, adequate and~~

~~reasonably uniform accounting and auditing procedures which shall be used by Conservation Districts;~~

~~(16) to conduct workshops for District Directors to instruct them on the subjects of District finances, the Conservation District Law and related laws, and their duties and responsibilities as Directors;~~

~~(17) to assist and supervise Districts in carrying out their responsibilities in accordance with the Oklahoma Laws; and~~

~~(18) to have power, by administrative order, upon the written request of the Board of Directors of the Conservation District or Districts involved, with a showing that such request has been approved by a majority vote of the members of each of the Boards involved:~~

~~(A) to transfer lands from one District established under the provisions of this Act to another,~~

~~(B) to divide a single District into two or more Districts, each of which shall thereafter operate as a separate District under the provisions of the Conservation District Act, and~~

~~(C) to consolidate two or more Districts established under the provisions of the Conservation District Act, which consolidated area shall operate thereafter as a single District under the provisions of the Conservation District Act.~~

155:1-1-10. ~~Office location; maintenance of records~~Commission Operations

~~The Commission shall maintain at its offices in Oklahoma City, Oklahoma, all papers, records, and data necessary to the operation of the Commission. All official communications should be addressed to the Chairman of the Oklahoma Conservation Commission, care of Oklahoma City, Oklahoma office or to the Executive Director of the Oklahoma Conservation Commission, 2800 North Lincoln Boulevard, Suite 160, Oklahoma City, Oklahoma 73105-4210.~~

(a) **Availability of Records.** All final orders, decisions and opinions, rules and regulations, resolutions, policies and all forms, applications and instructions related to or necessary for gaining access to the Commission's operations included in agency data bases and public files, and other services of the agency shall be made available at the principle office during regular business hours. Copies of all official records not protected from disclosure by law shall be available for inspection in accordance with the Oklahoma Open Records Act, at the principle office during regular business hours.

(b) **Office location; Hours.** The principle office of the Commission shall be at 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma. Unless otherwise directed by the Commission, office hours shall be from 8:00 A.M. to 4:30 P.M., Monday through Friday, inclusive, excepting legal holidays established by statute or by executive order.

155:1-1-11. Public inspection of Commission law; adoption of rules [REVOKED]

~~(a) All rules, regulations, orders and resolutions that make up the policy of the Commission and interpret and guide in the understanding and implementation of the Commission's Law will be available at the Commission office for public inspection during the work week, excluding holidays, at the hours of 8:00 A.M. to 4:30 P.M.~~

~~(b) In addition to the procedures available as per Title 75 of the Oklahoma Statutes, Section 301 et. seq., the Commission shall from time to time adopt rules and regulations describing formal and informal procedures available to individuals seeking guidance, assistance or redress from the Commission.~~

~~(c) All rules and regulations promulgated by the Commission will be duly filed with the Secretary of State, the State Librarian and the State Archivist. The duty of transcribing such rules and regulations and seeing that same are duly filed and properly placed and displayed for public view is hereby delegated to the Executive Director of the Commission.~~

155:1-1-12. Bonds of the Oklahoma Conservation Commission [REVOKED]

~~All bonds that are required for Commission members and/or Commission office personnel will be paid from and by funds appropriated by the Legislature to the Commission.~~

155:1-1-13. Annual audit of the Oklahoma Conservation Commission [REVOKED]

~~The annual audit should be the subject of a report each year at a Commission monthly meeting. The Commission shall be notified at a monthly meeting that such annual audit is being conducted or has been concluded. The Commission Executive Director and staff will give a full report, which shall include, at least, a report of the appropriations, expenditures and receipts in each of the funds established.~~

155:1-1-14. Newsletter of the Oklahoma Conservation Commission [REVOKED]

~~(a) The transcript of the monthly meeting shall be edited and published in a monthly newsletter, and the distribution of such newsletter shall be as follows:~~

~~(1) a copy sent to each Conservation District office;~~

~~(2) Substate Planning Region Associations;~~

~~(3) all USDA agencies in the State and the USDA office in Stillwater;~~

~~(4) State Department of Agriculture;~~

~~(5) Office of Community Affairs and Planning;~~

~~(6) Department of Wildlife;~~

~~(7) Water Resources Board;~~

~~(8) Pollution Control Board; and~~

~~(9) other State and Federal Agencies and individuals upon request.~~

~~(b) The Commission delegates the responsibility of the newsletter to the Executive Director. The Executive Director is also empowered to send such newsletter to any other individuals he deems appropriate.~~

[OAR Docket #09-443; filed 3-24-09]

TITLE 155. OKLAHOMA CONSERVATION COMMISSION
CHAPTER 10. CONSERVATION DISTRICTS

[OAR Docket #09-444]

RULEMAKING ACTION:
PERMANENT final adoption
PROPOSED RULES:
155:10-1-1 [AMENDED]
155:10-1-2 [REVOKED]
155:10-1-3 [REVOKED]
155:10-1-4 [REVOKED]
155:10-1-5 [AMENDED]
155:10-1-6 [AMENDED]
155-10-1-7 [REVOKED]
155:10-1-8 [AMENDED]
155:10-1-9 [REVOKED]
155:10-1-10 [AMENDED]
155:10-1-11 [AMENDED]
155:10-1-12 [AMENDED]
155:10-1-13 [REVOKED]
155:10-1-14 [REVOKED]
155:10-1-16 [REVOKED]
155:10-1-17 [REVOKED]
155:10-1-18 [REVOKED]
155:10-1-19 [AMENDED]
155:10-1-20 [AMENDED]
155:10-1-21 [AMENDED]
AUTHORITY:
Oklahoma Conservation Commission; 27A O.S. §3-1-101 et seq. and 3-3-101 et seq.
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January 5, 2009
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Effective:
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SUPERSEDED EMERGENCY ACTIONS
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
These rules are necessary to implement the provisions of the Conservation District Act. The purpose of the proposed rules is to provide the structure for Conservation Districts and to outline their daily operations.
CONTACT PERSON:
Ben Pollard, Assistant Director, Oklahoma Conservation Commission, 2800 N. Lincoln, Suite 160,Oklahoma City, Oklahoma 73105, (405)521-2384, FAX(405)521-6686 or via electronic mail at ben.pollard@conservation.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 25, 2009:

155:10-1-1. Purpose

This Chapter was adopted to set forth the rules and regulations of the Conservation Districts pursuant to ~~Title 82 Section 1501-502 (10)~~ Title 27A-3 of the Oklahoma Statutes, hereinafter referred to as Districts.

155:10-1-2. Definitions [REVOKED]

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

~~**"Agency of this state"** means the government of this state and any subdivision, agency or instrumentality, corporate or otherwise, of the government of this state.~~

~~**"Commission"** means the Oklahoma Conservation Commission as created by the Conservation District Act.~~

~~**"Conservation"** means conservation development, improvement, maintenance, preservation, protection and wise use of land, water and related natural resources; the control and prevention of floodwater and sediment damages; and disposal of excess surface waters.~~

~~**"Director"** means a member of the governing body of a Conservation District, elected or appointed.~~

~~**"District"** or **"Conservation District"** means a governmental subdivision of this state, and a public body corporate and politic.~~

~~**"District Cooperator"** means any person that has entered into a written cooperative agreement with a Conservation District created by the Conservation District Act for the purpose of protecting, conserving and practicing wise use of the renewable natural resources under his control.~~

~~**"Due notice"** means a notice to be in conformance with the Administrative Procedures Act to be published at least twice, with an interval of at least seven (7) days between the two publication dates, in a newspaper or other publication of general circulation within the District, or if no such publication of general circulation is available, by posting at five (5) conspicuous places within the District. Such posting is to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates.~~

~~**"Farming"** and/or **"ranching"** means an individual who owns or operates a farm or ranch, whether he be an owner in fee, a lessee or any arrangement wherein that individual has control over how the land is used during any particular season. Further, an individual who leases or otherwise allows control of his farm or ranch to pass to another shall be considered to be practicing farming or ranching if he receives an increment of the income of such operation other than rent or lease payments. Such increment, no matter how small, shall suffice.~~

~~**"Government"** or **"governmental"** means the government of this state, the government of the United States, and~~

~~any subdivision, agency or instrumentality, corporate or otherwise, of either of them.~~

~~**"Regulations"** means a rule or order prescribed for management of government; a regulating principle.~~

~~**"Renewable natural resources"**, **"natural resources"**, or **"resources"** means land, soil, excess surface water, vegetation, trees, natural beauty, scenery and open space.~~

~~**"Rules"** means any agency statement of applicability and future effect that implements, interprets or prescribes substantive law or policy or prescribes the procedure or practice requirements of the agency.~~

~~**"State"** means the State of Oklahoma.~~

~~**"United States"** or **"Agencies of the United States"** means the United States of America, or any department, agency or instrumentality of the federal government.~~

155:10-1-3. Due notice on District procedures [REVOKED]

~~The following information shall be used when notice is required to be given by a Conservation District on any procedure established by the Conservation District Act:~~

~~(1) **On public hearings.** Each Conservation District compelled to hold a public hearing, for whatever purpose, shall give notice of such hearing in a newspaper of general circulation twice with an interval of seven (7) days between such publications:~~

~~(A) The Conservation District shall use that newspaper which has general circulation in their Conservation District and will reach most of the people within the area.~~

~~(B) Each publication of notice shall run for one (1) day.~~

~~(C) The Conservation District shall assume the cost of any such due notice by publication, except or otherwise specifically provided.~~

~~(D) At least 20 days must elapse between the first publication and the date of the public hearing, except or otherwise specifically provided.~~

~~(E) The Conservation District shall, after due notice has been given, send a copy of such notice and a certificate signed by the Chairman of the Board to the Commission on Conservation District stationery with information as prescribed by the Commission. Such certificate shall be forwarded immediately to the Commission marked to the attention of the Chairman of the Oklahoma Conservation Commission or the Executive Director.~~

~~(2) **On filing period notices for candidacy.** The following information and procedure shall be followed to give notice to the general populous that applications for candidacy shall be filed in order to be a candidate in the March election for Conservation District Director:~~

~~(A) Each Conservation District shall give notice of such filing period in a newspaper of general circulation twice with an interval of seven (7) days within the first three weeks of January or by the posting copies of such notice in at least five (5) places in the Conservation District for two weeks.~~

~~(B) Such notice shall contain data as prescribed by the Commission.~~

~~(C) The Commission shall assume the cost of such notice.~~

~~(D) The Conservation District shall, after due notice has been given, send a copy of such notice and a certificate signed by the Chairman of the Board or the newspaper if published with such information as the Commission may require to the Commission on Conservation District stationery. Such certificate shall be forwarded immediately to the Commission marked to the attention of the Chairman of the Oklahoma Conservation Commission or the Executive Director.~~

~~(3) **On election date, second Tuesday in March.** The following information and procedure shall be followed in giving notice of an election for Conservation District Director:~~

~~(A) Each Conservation District having more than one candidate for the position of Conservation District Director shall either post copies of such information for a period of two weeks in at least five places in the Conservation District or by publication in some newspaper at least two times with seven (7) day intervals. Such publication should be completed five (5) days prior to the election, and such notice shall contain data as prescribed by the Commission.~~

~~(B) Paragraphs (2)(C) and (2)(D) of this Section shall apply to election dates.~~

155:10-1-4. Board of Directors; qualifications [REVOKED]

~~(a) **Operation.** The Board of Directors of each Conservation District shall be composed of five members, three elected for a term of three years, and two appointed by the Commission for a term of two years.~~

~~(b) **Qualifications.** An elected or appointed Director:~~

~~(1) must be a registered voter in the District seeking such appointment or election, and~~

~~(2) must be a Cooperator of the District seeking such election and must have a cooperative agreement on file in the Conservation District office thirty (30) days prior to filing for candidacy of said office.~~

155:10-1-5. Elected Directors; election procedures

~~(a) **Date of election and procedure.** The Commission rules that prior to the receipt of the printed ballot for the election on the second Tuesday of March of every year by the Conservation District, the Conservation District shall meet the following requirements:~~

~~(1) **Notification of election.**~~

~~(A) Publish in accordance with Section 155:10-1-3 (2) (notice for filing for candidacy); and~~

~~(B) Publish in accordance with Section 155:10-1-3 (3) (notice of date of election).~~

~~(2) **Place of election.**~~

~~(A) The Commission rules that there shall be at least one polling place based upon the following criteria:~~

~~(i) Conservation Districts with less than 10,000 population shall have at least one polling place;~~

~~(ii) Conservation Districts with 10,000 population or more but less than 20,000 population shall have at least two polling places; and~~

~~(iii) All other Conservation Districts with 20,000 population or more shall have at least three polling places.~~

~~(B) In determining the location of the polling places, the following criteria shall be used:~~

~~(i) One shall be at the Conservation District office; and~~

~~(ii) The second or subsequent ones shall be at such locations different from (i) of this subparagraph that will reflect the greatest election returns from the last election.~~

Three directors shall be elected for a term of three years. The elected positions are numbered 1, 2 and 3 with succeeding terms, so that one term expires each year. A district director will continue to serve until re-elected or a successor is certified by the Commission.

(1) **Date of election.** An election for District Director shall be held each year on the first Tuesday in June; provided there are two or more eligible candidates.

(2) **Notice of Filing Period.** The filing period for the position of District Director shall begin at the start of business on May 1 through the close of business on May 14 of each year. Each District shall give notice of such filing period in all newspapers of general circulation in the District twice, with an interval of seven days, within the first three weeks of April. Such notice shall contain data as prescribed by the Commission. The Commission shall assume the cost of such notice. The District shall send a copy of such notice and certification signed by the newspaper to the Commission office.

(3) **Notification and declaration of candidacy.** To declare as a candidate for District Director, individuals shall fill out a notification of candidacy as prescribed by the Commission. The District shall accept notice from all persons who fill out the notice and shall forward it to the Commission upon the close of the filing period. If the individual does not have a cooperator agreement with said district, an application for cooperator agreement must be made as prescribed by the Commission.

(4) **Receipt of notification of candidacy.** Upon receipt of the notifications of candidacy, the Commission shall determine eligibility of the candidate(s). The Commission shall notify the appropriate District of its findings of eligibility.

(A) If only one candidate files notification of candidacy, and is determined eligible by the Commission, no election will be held and the candidate will be declared elected to the position.

(B) If two or more candidates file notification of candidacy, and are determined eligible by the Commission, an election shall be held and the District shall prepare for such election.

(C) If no one files notification of candidacy during the filing period, the District shall recommend to the Commission an individual for appointment on a form as prescribed by the Commission to the elected position. However, the current director shall continue to serve until a successor is appointed.

(5) **Board Meeting to prepare for election.** If it is determined by the Commission that two or more candidates are eligible, the District shall hold a special meeting if the regularly meeting has already been held to:

(A) recommend polling places (see Polling Places),

(B) appoint the District Election Committee (see District Election Committee), and

(C) determine the newspapers to publish the Notice of Election.

(6) **Election procedures.**

(A) **Polling Places.** In determining the location of the polling places, the following criteria shall be used and all polling places shall be approved by the Commission:

(i) One shall be in the city/town of the District office;

(ii) Additional locations may be at such sites throughout the District boundaries so as to provide accessibility to all geographic areas in the district.

(B) **District Election Committee; precinct committees.**

(i) The Board of Directors shall appoint a District Election Committee of three to have charge of the election in the District. Members of the District Election Committee shall be responsible only to the Commission and shall be authorized representatives of the Commission. If more than one polling place is approved by the Commission, the District Election Committee shall appoint a Precinct Committee consisting of three members to supervise the election at each additional polling place. The District Election Committee will supervise and be responsible for conducting the election. The District Election Committee and the Precinct Committees, if needed, shall abide by instructions as prescribed by the Commission.

(ii) The Board of Directors and/or their immediate families cannot serve on either the District Election Committee or the Precinct Election Committee as set out in this paragraph.

(iii) Members of the Committees shall be paid a rate in accordance with the County Election Board and shall receive mileage at the State Travel Reimbursement Act rate.

(C) **Notification of election.** Each District holding an election shall publish such information in all newspapers of general circulation in the district at least two

times with an interval of seven days. Such publication should be completed five days prior to the election, and such notice shall contain data as prescribed by the Commission.

(7) **Election results.** Election results shall be sent to the Commission office upon completion of tabulation and on forms as prescribed by the Commission. The Commission will certify the election results and will forward certification to the appropriate District. Ninety days after the newly elected Director is certified by the Commission, the ballots shall be destroyed provided no challenge of election is pending.

(8) **Runoff election.** If two or more candidates receive the same number of majority votes cast, a runoff election will be held within thirty days from the date of the first election and in the same manner as the first election.

(9) **Challenge of election results.** Any candidate can contest the correctness of the announced results by filing a written petition with the District Election Committee before 4:30 p.m.on the Friday following the election.

(A) **Recount of ballots.** Any person demanding a recount of ballots shall deposit with the District Election Committee an amount set forth by the Commission. If a change in the winner is noted, then deposited funds will be returned to the challenger. If no change in the winner is noted, then all expenses shall be deducted from the deposited funds and the balance of said deposit, if any, shall be returned to the challenger.

(B) **Certification of voters.** Any person demanding that voters be certified as registered voters within the boundaries of the district shall deposit with the District Election Committee an amount set forth by the Commission. If a change in the winner is noted, then deposited funds will be returned to the challenger. If no change in the winner is noted, then all expenses shall be deducted from the deposited funds and the balance of said deposit, if any, shall be returned to the challenger.

(10) **Taking office.** The newly elected Directors shall assume their duties on July 1st of each year or as soon thereafter as qualified by the Commission for a term of three years and shall be administered a Loyalty Oath and an Oath of Office. Copies of the oaths shall be filed in accordance with state law.

(11) **Vacant elected position.** If a vacancy is created for any reason during the elected term, the Commission shall appoint a successor to fill the unexpired term of such elected Director; however, the elected director shall continue to serve until a qualified successor is appointed.

~~(3) **Procedure for election.**~~

~~(A) The Board of Directors and/or their immediate families cannot serve on either the District Election Committee or the Precinct Election Committee as set out in this paragraph.~~

~~(B) The Board of Directors will designate the places where it would be advisable to locate election boxes.~~

~~(C) The Board shall appoint a District Election Committee of three (3) to have charge of the election in the District. They, in turn, shall be responsible only to the Commission and let it be known by all men that they shall be the authorized representatives of the Commission and will supervise and be responsible for conducting the election. They shall abide by the following instructions:~~

~~(i) All persons appointed to the District Election Committee and the Precinct Election Committee set out in (ii) of this subparagraph shall, before entering upon the duties of their office, take and subscribe to the oath of office prescribed by the constitution for state officers. The Election Committee members set out in this subparagraph shall have the oath of office administered to them by any officer authorized to administer oaths or by one of the members of the Board of Directors of the Conservation District and filed at the Conservation District office;~~

~~(ii) The District Election Committee shall appoint a Precinct Committee consisting of an inspector, judge, and clerk for each polling place; and furnish the Commission with a list of places of election and the names of each of the Precinct Committee members. In any Conservation District where one polling place is authorized by Subsection (2) of this Section, the Precinct Committee shall be dispensed with and the duties heretofore imposed upon the Precinct Committee at such election shall be performed by the District Election Committee of the Conservation District. In such cases, the Board shall appoint the members of the District Election Committee as inspector, judge, and clerk for the polling place;~~

~~(iii) It shall be the duty of the District Election Committee to make available such supplies as will be needed by the Precinct Committees and instruct them in the proper use of such supplies furnished by the Board of Directors;~~

~~(iv) The District Election Committee shall make every effort to conduct the election so as to make it possible for the largest number of eligible voters to vote in the election;~~

~~(v) When all returns from the Precinct Committees have been made to the District Election Committee, the total voting shall be tabulated and the results transmitted to the Oklahoma Conservation Commission, 2800 North Lincoln Boulevard, Suite 160, Oklahoma City, Oklahoma 73105-4210; and~~

~~(vi) The District Election Committee shall be charged with the responsibility of tabulating the quantity of unused ballots and other unused materials and destroy the same in the presence of at least two (2) members of the District Board of Directors.~~

~~(D) The Precinct Committeemen shall abide by the following instructions:~~

~~(i) Allow all registered voters who appear in person and sign the affidavit of registered voters to cast their vote;~~

~~(ii) Polls will be open for at least six consecutive hours between the hours of 7:00 a.m. and 7:00 p.m.;~~

~~(iii) Permit no loitering within fifty (50) feet of any election box, or the place where such election is being held. Except, that each candidate may have one watcher, authorized in writing by the candidate, at each polling place;~~

~~(iv) Should any registered voter require assistance in casting his or her ballot, it shall be the duty of the Committee to give such assistance, and such assistance shall be given only upon the request of said voter;~~

~~(v) Each voter shall be allowed to vote at the polling place within their District most convenient for him or her;~~

~~(vi) Indelible pencil or ink shall be used for the marking of ballots;~~

~~(vii) On the closing of the polls at the above designated time, the results of the election at each precinct polling place shall be recorded on the letter of transmittal, placed in an envelope, together with all voting ballots and register of persons voting and sealed. The Precinct Committee shall make public the results of such election by posting a true and correct copy of the letter of transmittal in some conspicuous place at such place of election;~~

~~(viii) The Precinct Committee shall deliver the ballots along with the letter of transmittal properly executed and all other forms to the District Election Committee immediately after the time of closing of the polls;~~

~~(ix) Any person demanding a recount shall deposit $50 with the District Election Committee and said committee shall recount, and if no change in the winner is noted, then all expenses shall come from the deposited funds and the balance of said deposit shall be returned;~~

~~(x) All election laws now in existence or hereafter enacted or amended into law are hereby adopted for inclusion in these Rules and Regulations unless otherwise provided for by these Rules and Regulations or so qualified;~~

~~(xi) Upon any challenge by any person by affidavit that such voter is not qualified, the Precinct Committee shall enclose the ballot in an envelope, seal the same and if it is found by the Precinct Committee that said challenged voter is qualified, said ballot shall be counted; and~~

~~(xii) Ninety (90) days after the newly elected Director is certified by the Commission, the ballots shall be destroyed and no challenge or irregularity will be accepted.~~

~~(E) Compensation of District Election Committee and Precinct Committee personnel for the Conservation District shall be $2.00 per hour in holding each election and/or recount, and one such member shall receive nine cents ($.09) per mile each way in going to the Conservation District office for election supplies and books and returning the same to the Conservation District office. In no case when an individual Election Committee member is filling two functions shall they receive more than $2.00 per hour.~~

~~(b) **Position designation.** The current positions of the elected members of the Board of Directors to meet the provision of the Conservation District Act shall remain designated as position number one (1), position number two (2), and position number three (3) on the new Board of Directors. Those individuals who now maintain the above mentioned positions shall retain those identical positions with which they are presently identified until their term expires.~~

~~(c) **Notification of candidacy.** The Conservation District Directors, upon receipt of completed forms as prescribed by the Commission during the first two weeks in February from any qualified individual by registered mail or in person, shall forward the same to be received by the Commission no later than the 18th of February of each year such election is held.~~

~~(1) The Commission, upon receipt of the Notifications of Candidacy from the Conservation Districts, shall call a special meeting and determine the following:~~

~~(A) the individual is not eligible, or~~

~~(B) the individual is eligible.~~

~~(2) The Commission shall notify the appropriate Conservation District in writing of its finding on any notification and declaration of candidacy. Such notice shall contain:~~

~~(A) a statement of the individual's eligibility, or~~

~~(B) a statement and supportive reasons for an individual's ineligibility.~~

~~(d) **Election results.**~~

~~(1) **Time to submit.** Election results must be in the Oklahoma Conservation office, Oklahoma City, Oklahoma, not later than four (4) days after the date of the election.~~

~~(2) **Certification.**~~

~~(A) When the results of the elections are determined, the Commission shall hold a meeting to certify each individual receiving the majority of votes as duly elected; and~~

~~(B) The Commission will forward such certification to the appropriate Conservation Districts with a certificate for each person elected.~~

~~(e) **Time for taking office for Directors.** The newly elected Directors shall assume their duties on April 1st of each year or as soon thereafter as qualified for a term of three (3) years. If a vacancy is created for any reason, the Commission shall appoint someone to fill the unexpired term of such elected Director.~~

~~(f) **Procedures dealing with oath and W-4 forms.**~~

~~(1) The newly elected Directors shall receive from the Commission the following forms:~~

~~(A) Loyalty Oath.~~

~~(B) W-4 Form.~~

~~(2) These forms should be filled out completely and returned within ten (10) days after receipt by the newly elected Directors to the Commission; and if such forms are not returned within ten (10) days, the Commission shall withdraw its certification of such individual elected and declare such position vacant. The Executive Director of the Commission has the discretion to extend this time period.~~

155:10-1-6. Appointed Directors

~~(a) **Appointment.** Two Directors from each District shall be appointed by the Commission to serve a term of two (2) years. The Commission shall issue a certificate of appointment to all appointed Directors. All Directors with an unexpired term to serve on any particular Conservation District shall fulfill such unexpired term under the provisions of the Conservation District Act.~~

~~(b) **Vacancies/reappointment of Directors.**~~

~~(1) When the term of an appointed Director expires, he shall be reappointed only on condition that the Conservation District Board of Director members (excluding the member up for reappointment) write a report reflecting either:~~

~~(A) recommending reappointment and stating at least:~~

~~(i) reasons for reappointment,~~

~~(ii) number of meetings attended, and~~

~~(iii) extent of activity in area of extra conservation projects, primarily of civic nature; or~~

~~(B) recommending non reappointment and reasons therefore and recommending another person for appointment.~~

~~(2) The Commission shall at a regularly scheduled monthly meeting place on its agenda, immediately after receipt, any recommendations for appointments. The Commission will take the appointment, in conjunction with the Conservation District's recommendations and:~~

~~(A) affirm the reappointment, if such is the case, or~~

~~(B) approve the appointment, or~~

~~(C) reject the appointment or reappointment, or~~

~~(D) hold in abeyance such appointment until further information is made available.~~

~~(3) The Commission shall notify the Conservation District and the individual of its action no later than ten (10) days after such appointment has been scheduled on the agenda and considered by the Commission.~~

~~(c) **Directors' expenses.** Each Director will be entitled to per diem as prescribed by law for each meeting attended and for actual expenses incurred in the official performance of their duties payable from the District funds.~~

~~(d) **Disqualifications of Directors.** If a Director shall, during his term of office as Director, be elected or appointed to any county or state elective office, or if he shall file as a candidate for the nomination to be elected to any such other office, his office as Director shall become vacant and the vacancy shall be filled by appointment of the Commission except a District Director may also serve on a board of education of a school district. The Commission declares that the following appointive positions shall not fall within the provisions of this section:~~

~~(1) Planning agencies, whether they serve as:~~

~~(A) chairman, or~~

~~(B) members of:~~

~~(i) local,~~

~~(ii) county,~~

~~(iii) city,~~

~~(iv) regional, or~~

~~(v) state.~~

~~(2) Planning and Zoning Commission, whether they serve as:~~

~~(A) chairman, or~~

~~(B) members.~~

(a) Two Directors from each District shall be appointed by the Commission to serve a term of two years beginning July 1 through June 30. A district director will continue to serve until re-appointed or a successor is certified by the Commission. To be eligible to serve as an appointed district director, an individual must be a registered voter and be a cooperator with the district or has made application to be a cooperator with the district.

(b) **Appointment; reappointment.**

(1) Boards of Directors shall submit a recommendation to the Commission for appointment to the office of district director as prescribed by the Commission.

(2) Upon the expiration of term of an appointed director, the District shall make recommendation to the Commission for appointment or reappointment to the position as prescribed by the Commission.

(3) Appointed Directors are required to attend seventy-five percent of the regularly scheduled meetings throughout their term of office. If the Director did not meet the requirement, the District must submit a letter stating the reason the requirement was not fulfilled in order to be considered for reappointment.

(4) The Commission shall notify the District and the individual of its action after such appointment has been made.

155:10-1-7. Notification of new officers [REVOKED]

~~Each Conservation District shall forward to the Commission office in a form prescribed by the Commission the new officers of the Conservation District. Such notice shall be in the office of the Commission on or before May 1 of each year.~~

155:10-1-8. ~~Employment restrictions~~ Requirements for District Employment

~~(a) Each Conservation District shall notify the Commission when any assistants, experts, or necessary individuals are hired as an employee or in an independent contractor basis, when such hiring requires more funds than previously allocated to such Conservation District. Such notice shall be on such form as prescribed by the Commission and shall be subject to budget~~

~~limits of the Conservation Districts of the Commission. The Commission must have such form in its office at least ten (10) days prior to the next Commission meeting. The Commission shall review such form and either:~~

~~(1) advise the Conservation District on the feasibility of such employment; or~~

~~(2) advise the Conservation District on an alternate course of action; or~~

~~(3) advise the Conservation District of other possible sources for the proposed employment; or~~

~~(4) advise the Conservation District to withhold any action until further study of the matter is undertaken by the Commission.~~

~~(b) If the Commission has not taken any action, within sixty (60) days of the receipt of request or two (2) Commission meetings, whichever is longer, on the form or the Conservation District has not received any notice to the contrary, the Conservation District may assume that the Commission has no input into the project and that the Conservation District may proceed with due haste.~~

Conservation Districts shall hire individuals as prescribed by the Commission. Conservation District employees are at - will employees and the District and employee shall be required to complete a terms of employment defining the conditions of employment. In order to qualify and enter into the duties of his or her employment and/or receive compensation, a conservation district employee shall first take and subscribe to the loyalty oath or affirmation as prescribed by Title 51 Section 36.1 - 36.2A of the Oklahoma Statutes.

155:10-1-9. Secretary's maintenance of District handbook; Commission rules and regulations [REVOKED]

~~(a) The Secretary of each Conservation District shall keep a separate notebook wherein he or she shall place the Rules and Regulations passed by the Commission. Such Rules and Regulations shall be kept in the same book, but separated by appropriate means and marked "Rules" and "Regulations."~~

~~(b) The Secretary of the Conservation District shall receive two (2) copies of any rules and regulations passed by the Commission. One copy will be placed in the Secretary's handbook in the appropriate category. The other copy shall be posted in a conspicuous place in the Conservation District office for public view for a period of at least one (1) month, and thereafter kept in the District office for use by the public. The Secretary of the Conservation District shall also keep a separate handbook for any rules, regulations, orders, resolutions, etc. passed, adopted or promulgated by the Conservation District. One copy of any of the above mentioned documents shall be forwarded to the Commission office in Oklahoma City, Oklahoma within ten (10) days of passage of adoption.~~

155:10-1-10. ~~Miscellaneous records~~ Public inspection of district records; Maintenance of Records

~~The Conservation Districts shall provide the Commission with a certified original of any ordinances, rules, regulations, orders, contracts, forms or any other documents promulgated by such Conservation District within ten (10) days after adoption or approval of any of the above.~~ All official records, data and documents shall be maintained in the offices of each Conservation District. Conservation Districts shall make available all records, data and documents to the public as prescribed by the Open Records Act.

155:10-1-11. ~~Minutes of Board of Directors' meetings~~ Conservation District Board of Directors Meetings

~~The first carbon copy or a reproduced copy of the original regular Minutes of the Conservation District's Board of Directors monthly meeting shall be forwarded to the Commission within five (5) days of such meeting and shall be in addition to all other documents required by the Commission. Such minutes shall meet the following requirements:~~

~~(1) The Minutes shall contain a list of all individuals present other than Board Members.~~

~~(2) The Board of Directors present shall be listed in order of office held, i.e. Chairman, Vice Chairman, Secretary Treasurer (if member), Member, Member.~~

~~(3) The Minutes will follow a format that will indicate at least:~~

~~(A) name of District, time and place meeting held,~~

~~(B) meeting called to order by Chairman,~~

~~(C) the approval of past meeting minutes,~~

~~(D) old Business,~~

~~(E) new Business,~~

~~(i) claims,~~

~~(ii) financial statement,~~

~~(F) watershed - Great Plains, RC&D and other,~~

~~(G) Sub-State Planning Region report,~~

~~(H) agency report, and~~

~~(I) miscellaneous.~~

~~(4) The format described in (1) through (3) of this Section is the information the Commission deems necessary to oversee the efficient operation of the Conservation Districts. The Conservation Districts are allowed the discretion of adding any other provisions in the minutes or meetings they deem appropriate.~~

~~(5) Each of the headings described in the Minutes in (3) of this Section will be capitalized and in the center of the page above the appropriate paragraph. Any other items added by the Board of Directors are suggested to be included in the described form.~~

(a) Conservation Districts may meet monthly to conduct the business of the district and take official action on plans, programs and functions of the district. Any meeting held by a conservation district shall be conducted in accordance with the Open Meeting Act.

(b) Three board members shall constitute a quorum of directors.

(c) The minutes are the official record of the transactions and proceedings of the board of directors and shall be written in a manner prescribed by the Commission.

155:10-1-12. Annual audit

~~The Conservation Districts shall supply the Commission with the following information:~~

~~(1) **Annual audit.** Each Conservation District shall have cause to be taken an annual audit. Any accountant licensed by the State of Oklahoma for such a position shall be qualified to conduct the annual audit required by this Section and Section 1501-420 of Title 82 of the Oklahoma Statutes. A copy of the annual audit shall be in the office of the Commission no later than September 1st of each fiscal year. This audit shall be in the prescribed form as set out by the Commission. In addition to a copy of the annual audit, a signed certificate from the County Clerk of the County wherein the majority area of the Conservation District is located that such annual audit has been duly filed with the County Clerk shall be in the office of the Commission no later than September 1st of each fiscal year; and~~

~~(2) **Uniform procedures on audits and financial statements.** Beginning with fiscal year 1972, all the Conservation Districts shall use a uniform accounting procedures, so determined by the Commission. It is further ordered that beginning fiscal year 1972, that all Conservation Districts will adopt the fiscal year budget method as opposed to the calendar year method for their audits and financial statements. Such reports shall be in the Commission office on or before September 1st of fiscal year 1973 and every year thereafter.~~ The Commission shall be notified each year that arrangements have been made by the Conservation District Board of Directors to conduct an annual audit or compilation as prescribed by the Commission.

155:10-1-13. Advisory committees [REVOKED]

~~(a) **Appointment.** This Section will pertain to the Advisory Committee authorized in Section 1501-421 of Title 82 of the Oklahoma Statutes. The Board of Directors of any Conservation District may appoint such Advisory Committees for the following levels of influence:~~

~~(1) local, to include cities, towns, and counties;~~

~~(2) regional, to include a multi-county organization. This will include special purpose districts;~~

~~(3) state, to include those organizations whose jurisdiction or designated territorial boundaries encompass at least a majority of the counties in Oklahoma. This will include but not be limited to any state agency that will directly affect the jurisdiction and interest of the Conservation Districts; and~~

~~(4) extra-territorial, to include any Conservation District or any other local entity that affronts the boarders of Oklahoma. Only those Oklahoma Conservation Districts that affront the territorial jurisdiction of other states shall be involved with these entities.~~

~~(b) **Criteria.** The following criteria shall be established for advisory committees:~~

~~(1) The Board of Directors of each Conservation District will be responsible for each of the levels of influence, with the current Chairman of the Board of Directors serving as an at large member of any advisory committee.~~

~~(2) The Board of Directors shall appoint one of their members to be responsible for each level of influence. Those Conservation Districts that do not affront the territorial jurisdictions of another state shall appoint one Director to serve as a coordinating officer for all levels of influence.~~

~~(3) The individual Board Members responsible for each level of influence shall be designated an Advisory Committee as a whole. The Board of Directors shall from time to time establish such Advisory Committees as they deem appropriate.~~

~~(4) The Board of Directors who will be responsible for each level of influence shall establish a rapport with the appropriate officials, elected or appointed, responsible for the functions of society, governmental or private, and describe in detail the assistance the local Conservation District can give to the multitude of entities in the area of conservation of our renewable natural resources.~~

~~(5) The Commission intends for the Conservation Districts to have at least at the end of one (1) year from the passage of this Act, a list of all elected or appointed officials by name in a public or private capacity of each of the entities within each level of influence. Such list shall be kept current with notations as to whom is responsible for any particular individual and whether or not this individual has been contacted personally by phone or by letter and that particular individual's response.~~

~~(6) A summary shall be prepared at the end of each year to be placed in the annual report indicating what, if any, benefit response of project has come to light through any one of the levels of influence by the Conservation District's participation or contacts.~~

~~(A) If such participation or contacts have not been accomplished, the Chairman shall call a special meeting to be designated by such Chairman to reassess the value of such Advisory Committee; and~~

~~(B) The results of such meeting shall be recorded and transcribed and forwarded to the Commission with comments and recommendations for a suggested course of action.~~

~~(7) The Commission shall at the annual meeting of the Oklahoma Conservation Districts give a report of the benefits, responses or projects of the various Advisory Committees. At such meeting, the Commission shall give recommendations on what should or could be done to interest Conservation Districts into the public view by use of the Advisory Committees.~~

155:10-1-14. Investigation powers [REVOKED]

~~(a) The Commission rules that no agreements or arrangements may be entered into by the Conservation District until the Commission has been notified of such agreement or arrangement. Such notifications must be in the Commission office ten (10) days prior to the next following Commission monthly meeting so that it may be placed on the agenda of items for consideration.~~

~~(b) The Commission will at its monthly meeting, if such notice has been received in time, consider any proposal for a Conservation District investigating, participating or conducting a survey or investigation. The Commission will review the proposal and:~~

~~(1) advise the Conservation District to proceed and keep the Commission current as to developments, or~~

~~(2) advise the Conservation District that the Commission can provide assistance to help such survey or investigation, or~~

~~(3) advise the Conservation District that the matter will be held in abeyance until more information is obtained prior to a decision, or~~

~~(4) request the Chairman of the Board of Directors to make a personal appearance before the Commission to further expand upon the proposal.~~

~~(c) If the notifying Conservation District does not receive any communication from the Commission within sixty (60) days or after two Commission meetings have passed from the time of notification, whichever is longer, the Conservation District shall assume that the Commission has no objections, advice or guidance on the matter and the Conservation District may proceed as so stated in its proposal.~~

155:10-1-16. Maintaining funds for specific projects [REVOKED]

~~(a) Any funds, grants or loans received by the Conservation Districts for a specific project or program shall be maintained in a separate bank account from the Conservation District funds. The clerk of the Conservation District is ordered to begin and maintain, upon receipt of such funds, grants or loans a separate account from the regular and normal books of the Conservation District. The separate account shall reflect, at least:~~

~~(1) receipts;~~

~~(2) expenditures;~~

~~(3) claims; and~~

~~(4) disbursements.~~

~~(b) Such separate account is subject to all the prior provisions regarding annual audits and reports as provided in 155:10-1-12.~~

155:10-1-17. Use of Conservation District monies on non-Conservation District projects [REVOKED]

~~The Conservation Districts are prohibited from using any appropriate funds for any purpose other than what such funds were initially appropriated for, except upon proper request to the Commission and only after approval by said Commission.~~

155:10-1-18. Cooperative agreements [REVOKED]

~~(a) **Administrative agreements.**~~

~~(1) The Conservation District, upon contemplating entering into a contract or agreement with any other Conservation District or any local political subdivision of their State or any Federal agency shall be prohibited from contracting away any of the Conservation District statutory responsibilities or functions and further shall not enter into any agreement that will circumvent the avowed legislative purpose of the Conservation District Act. The Conservation Districts are also prohibited from contracting or agreeing to delegate any administrative functions essential to the operation of the Conservation District to any other Conservation District or to any local political subdivision of this State.~~

~~(2) The Conservation Districts that do enter into such contacts or agreements to promote administrative efficiency or economy will give the Commission notice of such contract ten (10) days prior to its execution. Such notice must be in the Commission office no later than ten (10) days after its execution; plus, a certified copy of such contract or agreement must accompany said notice.~~

~~(b) **Commission advice and guidance.** Any Conservation District that contemplates entering into an agreement or contract with any other agency shall submit such contract to the Commission for advice and guidance before executing such agreement or contract.~~

~~(c) **Interlocal cooperative Conservation District agreements.** If two or more Conservation Districts seek to cooperate in a project of program, wherein monies other than local funds are to be used, such intention to cooperation shall be forwarded to the Commission from all Conservation Districts that intend to cooperate.~~

~~(1) The report to the Commission shall contain at least the following:~~

~~(A) the names of all Conservation Districts cooperating,~~

~~(B) the reason for such cooperation,~~

~~(C) the project or program to be implemented by a cooperation described in detail,~~

~~(D) the funds to be expended by all Conservation Districts in the cooperative effort,~~

~~(E) persons or contractors to be employed in such cooperation,~~

~~(F) estimated time frame of such cooperation, and~~

~~(G) benefits to be derived from such cooperative effort.~~

~~(2) A proper request must be forwarded to the Commission ten (10) days before the next following monthly meeting. No funds, other than locally earned Conservation District funds, may be expended on such cooperation by the Conservation Districts.~~

~~(d) **Interstate agreements.** Conservation Districts, in attempting to enter into agreements with Conservation Districts in adjoining states, must advise the Commission of their action:~~

~~(1) At the time of such notification, the commission will seek the legal assistance of the Attorney General of the State of Oklahoma in discerning whether or not Oklahoma Conservation Districts and other state conservation districts can enter into such agreement. If the Attorney General finds that such a venture is possible, the Commission will request that the Attorney General help draft a~~

~~model or uniform contract that can be utilized by all Conservation Districts that affront adjoining states;~~

~~(2) All contracts, agreements and joint ventures by and for the Conservation Districts under the jurisdiction of the Commission will be governed by the rules, regulations and orders promulgated by the Commission; and~~

~~(3) Any proposed action by the Conservation Districts under 82 O.S. 1990 Section 1501-505 should be considered in light of these rules and regulations. Inquiries concerning these rules and regulations and the actions governed by 82 O.S. 1990, Section 1501-505 should be directed to the Commission office at the least ten (10) days prior to the next following monthly board meeting.~~

155:10-1-19. Annual report

(a) ~~**Contents.**~~ Each Conservation District shall publish an annual report ~~with data and information as required and on forms~~ on a fiscal year basis as prescribed by the Commission.

~~(b) The annual report shall be finished, in final form and in the Commission office no later than the 1st of September of each year. Extensions of time shall be granted by the Executive Director at his discretion with approval of the Commission.~~

155:10-1-20. Resource Conservation Program

(a) **Contents.** Each Conservation District shall complete a long range plan every five (5) years designating it~~,~~ as the "Resource Conservation Program." The Long Range Plan shall be develped in a format prescribed by the Commission. The Long Range Plan shall be submitted to the Commission for approval, rejection, or revision. ~~containing a minimum of the following information:~~

~~(1) inventory of all renewable natural resources;~~

~~(2) compilation of current resource needs;~~

~~(3) projections of future resource requirements;~~

~~(4) priorities for various resource activities;~~

~~(5) projected timetable;~~

~~(6) description of available alternatives; and~~

~~(7) provisions for coordination with other resource programs.~~

~~(b) **Procedure for Resource Conservation Program.**~~

~~(1) Procedures consist of the following:~~

~~(A) Receive input information from all interested individuals, groups, entities or agencies, local, state, or federal who may be affected by such Resource Conservation Program or who may submit ideas, suggestions, or comments to the Resource Conservation Program;~~

~~(B) Compile such information for the best need of the Conservation District;~~

~~(C) Hold a public hearing on the Resource Conservation Program (Subsection (c) of this Section); and~~

~~(D) Submit prior to said public hearing the Resource Conservation Program to the Commission for approval, rejection, or revision.~~

~~(2) The Director of the Commission is authorized to submit to the Conservation District outlines to be followed in compiling the Resource Conservation Program with request for specific information or data.~~

~~(3) The Resource Conservation Program, as required by the Conservation District Act, 1st Session of the 33rd Oklahoma Legislature, shall be forwarded to the Commission office no later than June 1, 1973, and shall be updated in conformity with the above procedures every five years.~~

~~(c) **Public hearing procedure on Resource Conservation Program.** The various Conservation Districts will give due notice of the public hearing as per 155:10-1-3 (1) stating time, place, date, and purpose of hearing.~~

~~(1) The meeting shall be attended by at least a quorum of the Board of Directors with one Director appointed by the Chairman or the Chairman administering the hearing; and~~

~~(2) Such public hearing shall follow this designated format:~~

~~(A) hearing called to order;~~

~~(B) introduction of Board members who shall sit as a panel in front of those in attendance;~~

~~(C) purpose of meeting announced;~~

~~(D) asking those present to identify themselves by name, town, and occupation or who they represent. The Conservation District Secretary shall record the same as each person so announces;~~

~~(E) distribute copies of the Resource Conservation Program to those present;~~

~~(F) ask if there is anyone present who would like to comment upon the work program or ask questions concerning the work program. The Board will hear such comments or questions and answer them to the best of their knowledge;~~

~~(G) Chairman, after due discussion has ceased, will give a very brief summary of the work program propounded by the Conservation District;~~

~~(H) Chairman will ask for comments on the summary of work program;~~

~~(I) Chairman will request that all comments and questions entailed during the hearing be embodied in the form of a written memo and forwarded to the Conservation District office of the appropriate Conservation District. Careful consideration should be given to all comments and suggestions amending the proposed program. Any comments or suggestions which are deemed by the Director to be in accordance with the general purpose of the program should be adopted; and~~

~~(J) Chairman will adjourn the meeting.~~

~~(d) **Annual plan.**~~

~~(1) Upon completion of the Resource Conservation Program and each year thereafter, the annual plan shall be derived from the Resource Conservation Program and shall describe the following:~~

~~(A) action programs;~~

~~(B) services;~~

~~(C) facilities;~~

~~(D) material;~~

~~(E) working arrangement; and~~

~~(F) estimated funds needed.~~

~~(2) The Director of the Commission is authorized to submit to the Conservation District outlines to be followed in compiling the annual plan and the information needed to be supplied in the annual plan.~~

~~(3) The annual plans shall be filed with the Commission by the first of July of each year.~~

~~(e) **Distribution of annual work plan and the Resource Conservation Program.** The Districts will deliver a copy of the annual work plan and the Resource Conservation Program (when adopted) to the following entities:~~

~~(1) the Oklahoma Conservation Commission;~~

~~(2) the local:~~

~~(A) county clerk,~~

~~(B) Soil Conservation Service Representative,~~

~~(C) Farmers Home Administration Representative,~~

~~(D) Oklahoma State University Extension Representative, and~~

~~(E) County Health Department Representative.~~

~~(3) Substate Planning District;~~

~~(4) Resource Conservation and Development Program project (applicable only in those areas where RC&D's are in existence);~~

~~(5) any and all special purpose districts within the boundaries of the Conservation District that deal primarily with renewable natural resources; and~~

~~(6) any other agencies or organizations deemed appropriate.~~

(b) After approval by the Commission, Conservation Districts shall give due notice of a public hearing to obtain comment on the Long Range Plan. Notice will be made by placing notice of such hearing in a newspaper of general circulation twice with an interval of seven (7) days between such publications:

(1) The Conservation District shall use that newspaper which has general circulation in their Conservation District and will reach most of the people within the area.

(2) Each publication of notice shall run for one (1) day.

(3) The Conservation District shall assume the cost of any such due notice by publication, except or otherwise specifically provided.

(4) At least 20 days must elapse between the first publication and the date of the public hearing, except or otherwise specifically provided.

(5) The Conservation District shall, after due notice has been give, submit a copy of such notice and a certificate signed by the Chair of the board to the Commission.

(c) Upon completion of the Resource Conservation Program (Long Range Plan) and each year thereafter, the annual plan of operations shall be derived from the Resource Conservation Program. The annual plan of operations shall be written in a manner as prescribed by the Commission.

155:10-1-21. Zoning ordinances

The Conservation Districts, in reviewing and commenting upon the various zoning ordinances promulgated by those governmental entities allowed by law to so pass, shall adhere to the following procedure:

(1) When reviewing a zoning ordinance, the Conservation District shall look at such ordinance in light of its current and future conservation plans and program impacts, with due respect for sound, economically feasible, and efficient use of the land subject to such ordinance;

(2) The Conservation District ~~shall~~may request the District Conservationist of the ~~Soil~~ Natural Resources Conservation Service to assist them in preparing a survey of such area to be encompassed in the zoning ordinance with particular details for:

(A) suitability of soils for the use of the zoning ordinance suggests,

(B) drainage from the area in light of the use the area may be subject to,

(C) if the area is a flood plain, this should be noted,

(D) if the area is within a watershed dam breach inundation area, this should be noted,

(~~D~~E) will the proposed use, as suggested by the zoning ordinance be one which will inherently damage the renewable natural resources in the area to such an extent that irreparable and irreversible damage will occur~~?~~, and

(~~E~~F) pollutants - is there a proper method of disposal~~?~~:

(i) natural pollutants, and

(ii) pollutants from suggested use as per zoning ordinance.

(3) ~~The District Conservationist shall make information available to the Board of Directors of the Conservation District and give his recommendation as to the possible ramifications of the zoning ordinance:~~The board of directors of the Conservation District may request technical assistance from the Natural Resources Conservation Service District Conservationist as to the possible ramifications of the zoning ordinance:

(A) If~~, from the content of such a report,~~ the Board of Directors deems necessary more technical data, they shall convey this request to the District Conservationist to ask for ~~more SCS~~additional technical assistance upon which to have their report; and

(B) The Conservation District shall notify the Commission of such a decision and specify which area of technical assistance they have requested and why. The Conservation District shall also notify the appropriate entity of government what they are intending to do.

(4) The Conservation District shall prepare a report for the appropriate unit of government seeking to adopt such zoning ordinance giving their comments. The Conservation District shall forward a copy of such report to the Commission.

[OAR Docket #09-444; filed 3-24-09]

TITLE 155. OKLAHOMA CONSERVATION COMMISSION
CHAPTER 20. CONSERVATION COST-SHARE PROGRAM

[OAR Docket #09-445]

RULEMAKING ACTION:
PERMANENT final adoption
PROPOSED RULES:
155:20-1-3 [AMENDED]
155:20-1-4 [AMENDED]
155:20-1-5 [AMENDED]
155:20-1-6 [REVOKED]
155:20-1-7 [REVOKED]
155:20-1-8 [REVOKED]
155:20-1-9 [REVOKED]
155:20-1-10 [REVOKED]
AUTHORITY:
Oklahoma Conservation Commission;27A O.S. §3-1-103 and 3-3-114 et seq.
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Failure of the Legislature to disapprove the rules resulted in approval on March 24 2009.
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March 24, 2009
Effective:
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SUPERSEDED EMERGENCY ACTIONS
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
These rules are necessary to implement the provisions of the locally led Conservation Cost Share Program (Program). The purpose of the proposed rules is to provide the structure of the Program and outline the requirements for voluntary participation in this Program.
CONTACT PERSON:
Ben Pollard, Assistant Director, Oklahoma Conservation Commission, 2800 N. Lincoln, Suite 160,Oklahoma City, Oklahoma 73105, (405)521-2384, FAX(405)521-6686 or via electronic mail at ben.pollard@conservation.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 25, 2009:

155:20-1-3. Responsibilities

(a) The Commissioners shall:

(1) Identify problems affecting the state's renewable natural resources and set resource guided goals that the Conservation Cost-Share Program will address.

(2) Establish, based on Commission staff recommendations, ~~a list of eligible cost-share conservation practices that will address the identified problems for each of the program initiatives. Cost-share rates and the method of cost-sharing will also be established.~~program year guidelines.

~~(3) Establish state average costs and adjust average costs used by districts, if necessary, to prevent large variations in average costs between districts.~~

~~(4) Set the allocation of funds for administration, the Locally Led Conservation Initiative, the Priority Watershed Initiative, and a reserve fund. The source of these funds shall be the Conservation Cost-Share Fund.~~

~~(5) Establish the date that identifies the beginning of the program year and the allocation period. A program year may be less than, equal to, or greater than 12 months. The allocation period might not be the same for each program initiative.~~

~~(6) Redistribute any unallocated program year funds.~~

(~~7~~3) Designate priority watersheds and allocate funds to be used in these watersheds based on recommendations from Commission staff.

~~(8) Establish the minimum and maximum cost share payment that a participant may receive under each program initiative in any one program year.~~

(~~9~~4) Consider the establishment of a reserve fund to address contingencies that may arise concerning the operation of the Conservation Cost-Share Program within the districts and/or the Commission.

~~(10) Designate a hearing officer to act on appeals of Conservation Cost-Share Program applicants\participants.~~

(b) The Commission staff shall:

(1) Present to the Commissioners a prioritized list of problems affecting the state's renewable natural resources and recommend a set of resource guided goals in addressing these problems.

(2) Recommend~~, at least, annually to the Commissioners a list of eligible cost-share practices that will address these problems for each of the program initiatives. These cost-share practices will meet current NRCS standards and specifications. In the event NRCS standards and specifications do not exist, conservation practices must meet Commission approved standards and specifications. Cost-share rates, state average costs and methods of cost-sharing for these cost-share conservation practices will also be recommended. The staff will seek input from districts, NRCS, FSA, the Nonpoint Source Working Group, and other interested groups.~~ program year guidelines to the Commissioners.

(3) Recommend to the Commissioners priority watersheds and the amount of funds to be allocated to each priority watershed. Input from the Nonpoint Source Working Group will be used in developing these recommendations.

~~(4) Develop a system for the redistribution of unallocated program year funds.~~

~~(5) Perform clerical, administrative, and record keeping responsibilities required for carrying out the Conservation Cost-Share Program.~~

~~(6) Develop, in consultation with NRCS and districts, the standards and specifications for eligible cost-share conservation practices for which there are no current NRCS standards and specifications.~~

~~(7) Serve as liaison to the United States Department of Agriculture's (USDA) Oklahoma State Technical Committee, which reviews the standards and specifications for NRCS conservation practices and provides guidance on USDA programs such as the Environmental Quality Incentives Program.~~

~~(8) Process claims from program participants for completed and certified cost-share conservation practices and issue cost-share payments to participants in conjunction with districts.~~

~~(9) Provide program evaluation and auditing to districts to ensure that cost-share funds are being used appropriately in accordance with established laws, rules, regulations, policies, and procedures.~~

~~(10) Receive and maintain monthly reports from districts showing the obligated and unobligated balance of allocated funds as shown on each ledger at the close of the last business day of each month. These reports also will identify the number and type of cost-share conservation practices approved for each program initiative and the disbursement of funds to participants.~~

~~(11) Submit consolidated quarterly reports to the Commissioners of the reports from districts identifying obligated and unobligated balances, number and type of each cost-share conservation practice for each program initiative approved by each district, and disbursement of funds to participants.~~

~~(12) Act on appeals filed by applicants\participants.~~

~~(13) Submit consolidated annual reports to the Commissioners, Governor, Speaker of the House of Representatives, and President Pro Tempore of the Senate.~~

(~~14~~4) Develop, and make available to districts, guidance including a detailed list of policies, procedures, and forms necessary for the efficient administration of the program.

(~~15~~5) Monitor, evaluate, and assess waters of the state to determine the condition of streams and rivers impacted by nonpoint source pollution and report the results of these studies to the Commission, districts, and appropriate local, state, and federal agencies.

~~(16) Provide the districts with Geographic Information System support and coordinate the management of geographic information pertaining to the Conservation Cost-Share Program.~~

(~~17~~6) Assist districts in identifying and prioritizing nonpoint source problems as well as other problems impacting the state's renewable natural resources.

(~~18~~7) Assist and give guidance to districts in selecting cost-share conservation practices that will be used to address Commission established nonpoint source problems in priority watersheds.

(c) The conservation district shall:

(1) Identify and prioritize problems affecting the district's renewable natural resources. If so applicable, the district may identify unique priority areas for focusing the application of conservation practices.

~~(2) Hold, at least, annually a Conservation Cost-Share Program development public meeting to designate, subject to Commission approval, eligible cost-share conservation practices that will be available within the district. The district will seek input from the Commission, local NRCS and FSA personnel, and other interested persons or groups. The district will solicit input concerning the relative importance of these cost-share conservation practices in addressing renewable natural resource-based problems within the district.~~

(~~3~~2) Consult with Commission staff concerning the selection of cost-share conservation practices which will be used to address nonpoint source pollution problems in priority watersheds or parts of priority watersheds that exist within the district.

~~(4) Compile average costs for each cost-share conservation practice and provide this information to Commission staff prior to the setting of state average costs for the next program year.~~

~~(5) Maintain control ledgers showing allocated funds, obligated funds, unobligated funds and disbursed funds through the district.~~

~~(6) Establish, under guidance of the Commission, a priority system to be used for evaluation of applications.~~

~~(7) Establish the period(s) of time for accepting applications and announce the Conservation Cost-Share Program locally.~~

~~(8) Accept and process Conservation Cost-Share Program applications.~~

~~(9) Determine eligibility of land and persons for cost-share payments.~~

~~(10) Notify applicants of the district's decisions on applications.~~

~~(11) Establish a case file for each participant.~~

~~(12) Obligate allocated funds for applications receiving district board approval.~~

~~(13) Provide or arrange for the designated technical representative to give technical assistance to applicants and participants.~~

~~(14) Make cost-share payments, in conjunction with the Commission, to participants for completed and certified conservation practices.~~

~~(15) Submit monthly reports on the obligated and unobligated balance of allocated funds, number and type of cost-share conservation practices funded, and funds disbursed to participants as shown on each ledger at the close of the last business day of each month. Also, submit annual reports to the Commission on accomplishments.~~

~~(16) Submit requests for reallocated funds, if needed, to the Commission.~~

~~(17) Release all funds not obligated by the end of the allocation period.~~

~~(18) Inspect conservation practices for sellers and buyers of land and prepare written statements on maintenance of practices installed using cost-share payments, if requested.~~

~~(19) Act on appeals submitted to the district and provide data on appeals submitted to the Commission by the applicant/participant.~~

~~(20) Certify the completion of work and authorize payment through the Commission.~~

(~~21~~3) Apply to the Commission for an allocation of funds to address the Priority Watershed Initiative and the Locally Led Conservation Initiative.

~~(22) Execute a Memorandum of Agreement with NRCS and/or FSA defining the duties and responsibilities each partner will have in carrying out the provisions of the Conservation Cost-Share Program.~~

~~(23) Identify who the designated technical representative shall be for the district.~~

~~(24) Submit reports, claims, and other requested documentation in a timely manner as outlined in the District Handbook. Failure to do so may jeopardize the district's eligibility for future Conservation Cost-Share Program allocations.~~

~~(25) Collect geographic information concerning each cost-share conservation practice and transmit this information to the Commission.~~

~~(26) Establish and maintain a current list of identifiable components, cost-share rates, cost-share methods, and average costs that will be used in the various cost-share conservation practices. This shall be based on a per unit average cost to be used in determining cost-share payments to participants completing cost-share conservation practices.~~

~~(d) The Natural Resources Conservation Service will:~~

~~(1) Provide technical assistance upon request by the districts and Commission.~~

~~(2) Provide input to the districts and Commission during annual program development on eligible conservation practices, cost-share rates, and average costs.~~

~~(3) Revise the Cooperative Working Agreement with each district defining the duties and responsibilities each partner will have in carrying out the provisions of the Conservation Cost-Share Program.~~

~~(e) The designated technical representative shall:~~

~~(1) Be identified by the local district board and have a minimum of one year practical experience in planning, designing, and applying conservation practices on the land.~~

~~(2) Assist applicants/participants in developing conservation plans and determine need for conservation practices.~~

~~(3) Design and layout, where applicable, approved conservation practices.~~

~~(4) Determine compliance with applicable standards and specifications.~~

~~(5) Have authority to delegate the design and layout of approved conservation practices and the determination of compliance with applicable standards and specifications to employees under his/her supervision.~~

~~(6) Certify conservation practice quantities and completion of conservation practice.~~

155:20-1-4. Administration of funds

(a) **Conservation Cost-Share Fund.** The Conservation Cost-Share Fund shall be administered according to 27 O. S. Ann. § 3-3-115.

(b) **General.**

(1) The Commission will, upon recommendations from Commission staff, set aside not more than 10 percent of any legislative appropriation for administration of the Conservation Cost-Share Program. This money will be used to fund personnel and operating costs, including technical assistance costs, associated with administration of the Program at both the Commission and conservation district level. In addition, a reserve fund may be maintained to meet contingencies that may arise. The remainder of the appropriation will be allocated to two main program initiatives - the Priority Watershed Initiative and the Locally Led Conservation Initiative.

(2) Any funds allocated to districts and not obligated during the allocation period for a given program year will be released by the district and made available for reallocation by the Commission. Additionally, any funds obligated during the allocation period but not disbursed within one year after the end of the allocation period shall be released to the Commission and made available for reallocation. The Commission will reallocate these funds and such funds will be identified as current program year funds.

(3) During any allocation period, should any funds become deobligated within the district, for whatever reason, then these funds are available for re-obligation by the district board within the respective program initiatives.

(4) Nothing in any contract or agreement executed between the district and participant shall be interpreted or construed to constitute a financial or general obligation of the state. No state revenue shall be used to guarantee or pay for any damages to property or injury to persons as a result of the provisions of any contracts or agreements.

(c) **Locally Led Conservation Initiative allocation.** The Locally Led Conservation Initiative will receive funds from the Conservation Cost-Share Fund as allocated by the Commission. ~~Districts will have the option to request an amount less than this base allocation. This requested amount will become that district's base allocation for that program year. Funds that become available because of districts requesting less than the base allocation, or due to other reasons, shall be reallocated to districts who have applied for these funds. This money will be available for cost-share conservation practices that address renewable natural resource-based problems identified by districts.~~

(d) **Priority Watershed Initiative allocation.** The Priority Watershed Initiative will receive funds from the Conservation

Cost-Share Fund as allocated by the Commission. Funds will be allocated watershed by watershed by the Commission, based on recommendations prepared by Commission staff with input from the Nonpoint Source Working Group and other interested groups. This money will be available for cost-share conservation practices that address water quality, soil erosion, and animal waste issues in high priority watersheds.

(e) **Reserve fund.** The Commission may administer a reserve fund to be set aside and used only to meet contingencies that occur in the districts or within the Commission. Money for this fund shall come from the Conservation Cost-Share Fund as determined by the Commission. ~~The amount in the reserve fund will be based on prudent planning and historical needs. Amounts deemed to be in excess of anticipated needs shall be reallocated to the program initiatives.~~

155:20-1-5. Eligibility for Conservation Cost-Share Program

(a) **Ineligible land.** Allocated funds shall not be used on tracts of land smaller than twenty acres in size from which less than $1,000 of soil-dependent products are sold annually. These restrictions shall not apply to tracts of land which serve as waste collection sites, waste transfer sites, or to cost-share practices implemented in priority watersheds and unique priority areas within a conservation district. Withstanding these provisions, the determination whether land is eligible for cost-share payments shall be pursuant to 27 O. S. Ann. §§ 3-3-114.

(b) **Eligible purposes.** Cost-share payments shall be available only for eligible conservation practices.

(c) **Eligible conservation practices.**

~~(1)~~ Conservation practices that the Commission has approved shall be eligible for cost-share payments. A complete listing of the eligible conservation practices will be identified in the Commission's program year ~~document.~~ guidelines. ~~Each district shall designate a list of eligible conservation practices from only those conservation practices approved by the Commission. Conservation practices where the construction or implementation has already begun will not be eligible for cost share payments. Cost-share conservation practices that are for strictly productive purposes shall not be eligible for cost-share payments.~~

~~(2) Districts may request the Commission's approval to offer conservation practices not included in the Commission's list of approved practices. The use of special conservation practices is limited to those practices that can solve unique problems in a district and that conform with one or more of the purposes of the Conservation Cost-Share Program. Standards and specifications for these special cost-share conservation practices will be developed by the Commission staff in consultation with NRCS and shall be approved by the Commission. Requests for special conservation practices will be filed in writing with the Commission.~~

(d) **Requirement to file an application and conservation plan.** In order to qualify for a cost-share payment, an eligible person shall file:

(1) An application for allocated funds.

(2) A conservation plan approved by the district in which the eligible person's land is located.

155:20-1-6. Application processing procedures [REVOKED]

~~(a) **Responsibilities of applicants.** Applicants for cost-share payments for implementing conservation practices shall:~~

~~(1) Complete and submit an application to the conservation district.~~

~~(2) Obtain, if applicant is not the owner of the land on which the conservation practice is to be applied, a properly executed consent form from the owner(s) of the land and file it with the application.~~

~~(3) Specify in the application the estimated total cost of the conservation practice to be implemented and the percentage, if any, of such cost that the applicant proposes to bear. The percentage shall not be less than the minimum specified by the Commission for cost-share payments for the particular conservation practice.~~

~~(4) Request, when applicant does not have a conservation plan and has not determined the estimated total cost of the requested conservation practices, assistance from the district in developing such plan and determining costs. A conservation plan is not required for an application to be considered for funding. However, should the application be approved by the district, a conservation plan is required before a performance agreement can be executed and a cost-share payment be issued to the participant.~~

~~(5) Request, after being notified of approval and obligation of funds by the district, the designated technical representative to develop a conservation plan, if one does not already exist, and to design and layout the approved conservation practices.~~

~~(6) Complete and sign district cooperator, performance, and maintenance agreements and any amendments to those agreements in accordance to established district policy and procedures.~~

~~(7) Obtain any necessary permits prior to the start of the project.~~

~~(8) Secure any contractors needed and all contractual or other agreements necessary to construct or perform the approved conservation practices.~~

~~(9) Maintain accurate records for any labor or equipment hired and/or materials purchased. If work is performed by the participant, an accurate record must be kept documenting time spent performing each task.~~

~~(10) Supply the documents necessary to verify completion of the approved conservation practices along with a completed and signed certification of cost.~~

~~(11) Submit a claim to the district for cost-share payment.~~

~~(b) **Persons authorized to sign applications and agreements.** All applications and agreements shall be signed by one of the following:~~

~~(1) The eligible person.~~

~~(2) Any person(s) designated to represent the eligible person, provided an appropriate notarized durable power of attorney has been filed with the district office.~~

~~(3) The responsible person(s) or administrator(s), in cases of estates, provided that letters of administration or letters testamentary have been submitted to the district in lieu of a power of attorney.~~

~~(c) **Responsibilities of conservation districts.** Conservation districts shall:~~

~~(1) Establish the period(s) of time for accepting applications and announce the Conservation Cost Share Program locally.~~

~~(2) Accept and process Conservation Cost Share Program applications at the district's office.~~

~~(3) Determine eligibility of land and person(s) for cost-share payments. If an applicant's land is in more than one district, the respective district boards will review the application and agree to obligate all funds from one district or prorate the funding between districts.~~

~~(4) Determine if applications meet the eligibility requirements.~~

~~(5) Evaluate eligible applications under the district's priority system and give approval to the high priority applications that can be funded with the district's allocated funds.~~

~~(6) Obligate funds for the approved conservation practices that can be funded and notify the applicants within ten (10) days after district board action that the conservation practices have been either approved or disapproved for cost share payment. In the case of approval, the applicant is advised of the steps that need to be taken to implement the conservation practices. In the case of disapproval, the applicant is given a reason(s) why the application was not approved. The applicant is also notified of his/her right to appeal the district's decision, including procedures for filing an appeal.~~

~~(7) Provide the designated technical representative a list of applicants approved to receive cost share payments.~~

~~(8) Request the designated technical representative to determine compliance to standards and specifications and provide to the district an estimated cost of each conservation practice to be installed.~~

~~(9) Review the claim submitted by the participant upon completion and certification of an approved conservation practice. If the claim is approved, request that the Commission disburse funds for payment of the claim.~~

~~(10) Make final disbursement of the payment to participants successfully completing conservation practices.~~

~~(d) **Responsibilities of Commission staff.** Commission staff shall:~~

~~(1) Provide districts with guidance including a detailed list of policies, procedures, and forms necessary for the efficient administration of the program.~~

~~(2) Assist districts in developing policy and procedures which will be used at the district level.~~

~~(3) Assist districts in gathering Geographic Information System data.~~

~~(4) Process claims from program participants and issue cost share payments to participants in conjunction with districts.~~

~~(e) **Amended applications for allocated funds.**~~

~~(1) In the event that adjustment to the conservation practices cost estimate is necessitated by the final design, the participant shall either agree to:~~

~~(A) Assume the additional cost; or~~

~~(B) Complete and submit an amendment to the application for allocated funds to the district for approval or denial by the district.~~

~~(2) The conservation district may:~~

~~(A) Adjust the amount of funds obligated for the conservation practice, provided funds are available; or~~

~~(B) Request additional funds from the Commission.~~

~~(3) In the event that additional funds are not available, the conservation practice may be redesigned, if possible, to a level commensurate with available funds, provided the redesign still meets standards established by the Commission. Or the participant can agree to assume full financial responsibility for the portion of the conservation practice cost in excess of the amount authorized.~~

~~(f) **District cooperator agreement.** As a condition for receipt of a cost share payment for conservation practices, the participant shall execute a district cooperator agreement with the district.~~

~~(g) **Performance agreement.**~~

~~(1) As a condition for receipt of a cost share payment for conservation practices, the participant receiving the benefit of such payment shall agree to perform those practices. Specific conditions of the performance agreement will be detailed on an appropriate form. Completion of the form and signature of the participant are required prior to the construction or implementation of the conservation cost share practice and before the disbursement of the payment from the district to the participant.~~

~~(2) If the performance agreement contains multiple conservation practices that are completed, certified and a cost share payment is disbursed according to a predetermined schedule as outlined in the agreement and the district determines that the terms of the agreement are violated, the district shall demand that the terms of the agreement be fulfilled or repayment of any cost share payments that have been previously disbursed according to the agreement.~~

~~(h) **Maintenance agreement.**~~

~~(1) As a condition for receipt of a cost share payment, the participant receiving the payment shall agree to maintain the approved conservation practices for the expected life span of the practice as established by the Commission. Specific conditions of the maintenance agreement shall be detailed on an appropriate form. Completion of the form and signature of the participant are required prior to the disbursement of the payment from the district to the recipient.~~

~~(2) Should the district or Commission determine that the terms of the maintenance agreement have been violated, the participant shall either restore the conservation practices to the originally designed standards and specifications at his/her own expense or repay the appropriate amount of the cost-share payments as determined by the district or Commission.~~

~~(i) **Payment to participants.** The conservation district shall:~~

~~(1) Determine eligibility of the participant to receive disbursement of a cost-share payment by reviewing documents provided by the participant and the designated technical representative and contained in the participant's case file.~~

~~(2) Make disbursement of state warrant(s) from the district's allocated funds to the participant upon favorable determination of successful completion and certification of the conservation practices.~~

~~(j) **Applications held in abeyance because of lack of funds.** In cases where funds are not available, the applications will be held by the district until allocated funds become available or until the end of the program year allocation period. When additional funds are received, the district will obligate these funds using the same priority system as in the initial obligation process. Applications not funded by the end of the allocation period are considered expired and new applications will need to be filed during the next program year if the applicant still desires to request cost-share assistance.~~

~~(k) **Applications denied for reasons other than lack of funds.** Applications for funds which are denied by the district for reasons other than lack of funds shall be retained in the records of the district to the end of the program year allocation period. Written notification of the denial shall be provided to the applicant along with the reason(s) that the application was denied. The applicant will be advised of his/her right of appeal and of procedures necessary to exercise his/her appeal rights.~~

~~(l) **Applications withdrawn.** An application may be withdrawn by the applicant/participant at any time prior to receipt of cost-share payment by notifying the district in writing that withdrawal is desired. Applications withdrawn by the applicant/participant shall be retained in the records of the district until the end of the program year allocation period. Funds obligated to this application will be deobligated and made available for re-obligation by the district, if the application was withdrawn within the application's program year allocation period. If the application is withdrawn after the end of the allocation period, funds obligated to this application will be deobligated and returned to the Commission for reallocation.~~

~~(m) **Appeals.**~~

~~(1) The applicant may appeal the district's decisions relative to his/her application for allocated funds.~~

~~(2) The appeal shall be made to the district that rendered the decision(s) and shall set forth the basis for the appeal in writing .~~

~~(3) The district shall have 60 days in which to make a decision and notify the applicant in writing.~~

~~(4) The decision of the district may be appealed by the applicant to the Commission.~~

~~(5) All appeals made to the Commission shall be made in writing and shall set forth the basis for the appeal.~~

~~(6) The Commission's decision shall be final.~~

~~(n) **Case files.** A case file shall be assembled and maintained in the district office for each application approved. The case file will be filed by program year . The file will at least contain:~~

~~(1) The approved application for allocated funds.~~

~~(2) A copy of the estimated cost sheet.~~

~~(3) A reference to the approved conservation plan, which includes, but is not limited to, the conservation plan map, record of decisions, installation permits, and district cooperator agreement.~~

~~(4) The performance agreement.~~

~~(5) Any amendments to the performance agreement.~~

~~(6) The maintenance agreement.~~

~~(7) Any amendments to the maintenance agreement.~~

~~(8) Certification of conservation practice quantities and cost.~~

~~(9) Vouchers, bills, or receipts.~~

~~(10) Copies of any approved claims.~~

~~(11) Any receipts of payment.~~

~~(12) Consent form and release of warrant.~~

155:20-1-7. Maintenance of practices [REVOKED]

~~(a) Requirements for maintenance of practices applied using cost-share payment funds will be outlined in the participant's conservation plan and on the applicable maintenance agreement form and reviewed with the participant at the time the conservation plan is developed.~~

~~(b) A properly executed maintenance agreement shall be signed by the participant and included in the application for cost-share assistance.~~

~~(c) The conservation district may require a refund of the cost-share payment paid to a participant when the applied conservation practice has not been maintained in compliance with applicable design standards and specifications for the practice during its expected life span as agreed to by the participant.~~

~~(d) Conservation practices that have been successfully completed and that later fail as the result of floods, drought, or other natural disasters, and not the fault of the participant, will be eligible for additional cost-share payment funds to restore them to original design standards and specifications.~~

~~(e) In cases of hardship, death of the participant, or at the time of transfer of ownership of land where a conservation practice has been applied using a cost-share payment and the expected life span assigned the practice has not expired, the participant, heir(s), or buyer(s) respectively, will be encouraged to maintain the practices.~~

~~(f) Decisions concerning compliance with a maintenance agreement is an appealable item.~~

155:20-1-8. Violations of performance or maintenance agreements [REVOKED]

~~(a) In the event that the conservation district and/or Commission is notified of an alleged violation of a Conservation Cost-Share Program performance or maintenance agreement, a representative of the district and/or a representative of the~~

~~Commission shall investigate the alleged violation. Results of the investigation shall be reported to the district and the Commission. If, following the investigation, it appears as though a violation has occurred, the district shall give the participant due notice and an opportunity to correct the violation. Should the participant not respond to the notice within twenty-one (21) days or believes that no violation has occurred, the district shall make demand for repayment of the appropriate amount to the Conservation Cost Share Program within a time frame established by the district, not to exceed forty-five (45) days from the notice for demand of payment. The participant may, within the time specified for such repayment, contest the violation and may request that the district conduct a formal hearing to reconsider the demand for repayment. In the event that the participant agrees to correct the violation, the district shall set forth the parameters under which the correction is to occur and monitor the participants progress in correcting the violation. Should the participant not follow through with correcting the violation, the district shall proceed with a demand for payment.~~

~~(b) The hearing shall be conducted at a district board meeting and allow adequate opportunity for the participant to present arguments and testimony in support of his/her claim. If, following the hearing, the district determines that the violation occurred and that extenuating circumstances justify the participant's position, the district shall withdraw its demand for repayment and notify the participant of the decision. If, however, following the hearing the district determines that the violation occurred, it shall notify the participant and shall renew the demand for repayment. The participant may appeal the district's decision to the Commission. A notice of appeal must be filed with the Commission within thirty (30) days of the district's decision. The district will assist the participant in filing the proper notice of appeal form. If the participant does not file an appeal with the Commission and repayment is not provided or if all deficiencies are not corrected at the participant's expense within the time specified, appropriate legal action shall be taken.~~

~~(c) Should a notice of appeal be filed with the Commission, a hearing shall be conducted by a hearing officer appointed by the Commissioners. The hearing shall allow adequate opportunity for the participant and district to present arguments and testimony in support of their respective claim. The results of the hearing and recommendation of the hearing officer shall be presented to the Commissioners at the next regularly scheduled Commission meeting. If, in consideration of the hearing officer's recommendation and evidence presented at the hearing, the Commission determines that the violation occurred and that extenuating circumstances justify the participant's position, the Commission shall nullify the demand for repayment and notify the participant of the decision. If, however, the Commission determines that the violation occurred, it shall notify the participant and shall renew the demand for repayment. If repayment is not provided or if all deficiencies are not corrected at the participant's expense within the time specified, appropriate legal action shall be taken.~~

155:20-1-9. Determining status of conservation practices during transfer of land ownership [REVOKED]

~~(a) A seller of land with respect to a maintenance agreement which is in effect may request the conservation district to inspect the conservation practices. If the practices have not been removed, altered, or modified, the district shall issue a written statement that the seller has satisfactorily maintained the permanent practice as of the date of the statement.~~

~~(b) The buyer of land covered by a maintenance agreement may also request that the district inspect the land to determine whether any practice has been removed, altered, or modified as of the date of the inspection. If so, the district will provide the buyer with a statement specifying the extent of noncompliance as of the date of the statement. The district may take action against the seller of the land to recover a portion of the cost-share payment for breaching the maintenance agreement if the seller was the person who received the cost-share payment.~~

~~(c) The seller and the buyer, if known, shall be given notice of the time of inspection so that they may be present during the inspection to express their views as to compliance.~~

155:20-1-10. Reporting and accounting [REVOKED]

~~(a) Conservation districts shall:~~

~~(1) Submit approved claims and the necessary supporting documentation to the Commission staff for review. If the claim is complete and properly documented, a state warrant will be issued to the participant.~~

~~(2) Notify the participant that the warrant is available for disbursement upon receipt of the warrant from the Commission staff.~~

~~(3) Deliver the warrant to the participant either in person or by mail through procedures established by the Commission. These procedures will ensure that a properly executed Release of Warrant form is obtained from the participant. This Release of Warrant form will be signed by both the participant and the district board designee before the warrant is released.~~

~~(4) Correct any claim and/or supporting documentation that is submitted to the Commission staff for review and returned due to deficiencies and/or errors. The corrected claim will be resubmitted to the Commission staff.~~

~~(5) Maintain a control ledger showing allocated funds obligated for approved applications based on estimated cost.~~

~~(6) Submit a monthly report to the Commission indicating the obligated and unobligated balance of allocated funds as shown on each ledger at the close of the last business day of each month. These reports also will identify the number and type of cost-share practices approved for cost-share payments for each program initiative and information on the disbursement of funds to participants.~~

~~(7) Submit an annual progress report to the Commission showing accomplishments.~~

~~(b) Commission staff shall:~~

~~(1) Review district approved claims and supporting documentation. If the claim is complete and properly documented, it shall be forwarded to the Office of State~~

~~Finance. The State Treasurer shall issue a warrant payable to the participant.~~

~~(2) Transmit the warrant to the district upon receipt of the warrant from the State Treasurer.~~

~~(3) Return to the district for correction any district approved claim and supporting documentation having any deficiencies or errors. No payment will be authorized until the Commission staff has determined that the claim for payment and the necessary supporting documentation are complete and accurate.~~

~~(4) Receive and maintain monthly reports from districts showing the obligated and unobligated balance of allocated funds as shown on each ledger at the close of the last business day of each month. These reports will also identify the number and type of cost share practices approved for cost share payments for each program initiative and information on the disbursement of funds to participants.~~

~~(5) Submit consolidated quarterly reports to the Commissioners based on the reports from districts identifying obligated and unobligated balances and the number and type of each cost share practice approved by each district for each program initiative and information on the disbursement of funds to participants.~~

~~(6) Provide program evaluation and auditing to districts to ensure that cost share funds are being used appropriately in accord with established rules, regulations, policies, and procedures.~~

~~(7) Submit consolidated annual reports to the Commissioners, Governor, Speaker of the House of Representatives, and President Pro Tempore of the Senate.~~

~~(8) Monitor, evaluate, and assess waters of the state to determine the condition of streams and rivers impacted by nonpoint source pollution and report the results of these studies to the Commission, districts, and appropriate local, state, and federal agencies.~~

[OAR Docket #09-445; filed 3-24-09]

TITLE 155. OKLAHOMA CONSERVATION COMMISSION
CHAPTER 35. COORDINATION OF OKLAHOMA'S GEOGRAPHIC INFORMATION

[OAR Docket #09-446]

RULEMAKING ACTION:
PERMANENT final adoption
PROPOSED RULES:
155:35-1-1 [NEW]
155:35-1-2 [NEW]
155:35-1-3 [NEW]
155:35-1-4 [NEW]
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Oklahoma Conservation Commission; 27A O.S. §3-2-107 and 82 O.S. §1501-205.1 et seq
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N/A
ANALYSIS:
The purpose of the proposed rules is to define the Oklahoma Conservation Commission's role in the coordination of the state's geographic information resources and the Commission's responsibilities with regard to providing pollution complaint information to the public.
CONTACT PERSON:
Ben Pollard, Assistant Director, Oklahoma Conservation Commission, 2800 N. Lincoln, Suite 160,Oklahoma City, Oklahoma 73105, (405)521-2384, FAX(405)521-6686 or via electronic mail at ben.pollard@conservation.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 25, 2009:

155:35-1-1. Purpose

(a) This Chapter sets forth statutory requirements for the coordination of Oklahoma's Geographic Information pursuant to 82 O. S. Ann. §§ 1501-205 and 27 O. S. Ann. §§ 3-2-107 of the Oklahoma Statutes. The purpose of coordination is to promote the collaboration and sharing of geographic information, eliminate duplication of efforts and to insure the consistency of geographic information data elements through the adoption of applicable standards and procedures. The result is the development and maintenance of a fully-functioning Oklahoma Spatial Data Infrastructure that supports governments, educational institutions, organizations, businesses and individuals in the State through better decision-making, service and responsiveness to the citizens.

(b) The state's pollution complaint data that is collected by various state agencies is a specific classification of geographic information that the Commission is charged with the responsibility of making this information accessible to the public. This is being accomplished through coordination with the various agencies and by creating and maintaining a central database for the purpose of reporting and making this information available to the public.

155:35-1-2. Definitions

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

"Database or Data Base" means a structured collection of data which is managed to meet the needs of a community of users..

"Council" means the State Geographic Information Council.

"Geographic Database" means a database designed to store, query and manipulate geographic information and spatial data.

"Geographic Information" or **"Geospatial Data"** means any data or databases in which location or spatial distribution is an essential element, including, but not limited to, land, air, water, and mineral resources, the distribution of plant, animal, and human populations, real property interests, zoning and other land development regulations, and political, jurisdictional, ownership, and other artificial divisions of geography.

"Geographic Information System" or **"GIS"** or **"Geographic Database System"** means a computer system(s) that allow the analysis of data or databases containing geographic information.

"Oklahoma Spatial Data Infrastructure" means the technology, policies, and people necessary to promote geospatial data sharing throughout all levels of government, the private and non-profit sectors, and academia.

"Statewide Data" means geographic information whose spatial extent is defined by the geographic boundary of the state of Oklahoma.

155:35-1-3. State Geographic Information Council, Geographic Information Revolving Fund and Office of Geographic Information

(a) State agencies have pursued using Geographic Information System (GIS) technology to support capturing, managing, manipulating, analyzing, and displaying spatially referenced data for solving complex planning and management problems since the early 1980's. Legislation in 1994 created the State Geographic Information System Council to coordinate the preparation of a Strategy for Developing a Geographic Information for the State of Oklahoma, focusing on, but not limited to, natural resources.

(b) In May of 1996 the Council presented to the Legislature a Geographic Information Systems (GIS) Strategy for the State of Oklahoma. Through volunteer efforts of Council member agencies many of the action items identified within the document have at least been partially implemented. However, due to the rapid adoption of GIS in decision-making and the accelerating availability of digital geographic information, legislation in 2004 expanded the membership of the Council as well as established the Office of Geographic Information to address the state's responsibility to efficiently coordinate the development and management of this critical infrastructure. This legislation removed the word "System" from the Council's title and increased the membership to 19 by adding representatives outside the natural resource arena.

(c) An important role of the Council and the Office of Geographic Information is to lead and encourage continued development and use of the Oklahoma Spatial Data Infrastructure (OSDI). The OSDI is modeled after the National Spatial Data Infrastructure (NSDI) and is, in fact, the Oklahoma component of the NSDI. In a sense, the Council can be viewed as the policy arm of geographic information coordination while the Office of Geographic Information is the implementor of that policy.

(d) The Conservation Commission will use its leadership position on the Council and the Office of Geographic Information to further develop the OSDI using the requirements and guidelines spelled out in 82 O. S. Ann. §§ 1501-205.1 - 205.3 for the betterment of the citizens of this state.

155:35-1-4. Pollution complaint reporting system

The Conservation Commission will utilize the requirements and responsibilities identified in 27 O. S. Ann. §§ 3-2-107 to develop and maintain a geographic database system for reporting and making available to the public pollution complaint information collected by state agencies that receive and manage such data. The Commission will coordinate with the agencies to develop a common system that can be easily accessed by the public as well as governmental agencies.

[OAR Docket #09-446; filed 3-24-09]

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

[OAR Docket #09-503]

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Not Applicable
ANALYSIS:
Amendment to Rule 325:10-1-6 was proposed since Law Enforcement Agents have been somewhat unsuccessful in securing certain information relating to the racetrack security department's reporting procedures. The Commission Law Enforcement Division believes that, with the added language, the racetrack will comply with reporting procedures with a higher sense of urgency.
CONTACT PERSON:
Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 25, 2009:

325:10-1-6. Duty of licensed organization

Each organization shall observe and enforce the rules. The license is granted on the condition that the organization, its officials, its employees and its concessionaires shall obey all decisions and orders of the Commission. The organization shall not allow any wagering within the enclosure of the racing facility which might be construed as being in violation of the Laws of the State of Oklahoma. Each organization shall have a continuing duty to report to the Commission, Law Enforcement Division any violation of the Rules or applicable Laws of the State of Oklahoma by the organization, its officials, its employees or other occupational licensees, and its concessionaires. Failure to report violations will result in disciplinary action against the organization.

[OAR Docket #09-503; filed 3-26-09]

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

[OAR Docket #09-504]

RULEMAKING ACTION:
PERMANENT final adoption
RULE:
325:20-1-2. Definitions [AMENDED]
325:20-1-15. Duties of the Paddock Judge [AMENDED]
325:20-1-24. Duties of the Horse Identifier [AMENDED]
AUTHORITY:
75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission
DATES:
Comment Period:
November 17, 2008 through December 18, 2008 for 325:20-1-15 and 325:20-1-24
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Public Hearing:
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January 16, 2009 for 325:20-1-2
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SUPERSEDED EMERGENCY ACTIONS:
Not Applicable
INCORPORATED BY REFERENCE:
Not Applicable
ANALYSIS:
Amendment to Rule 325:20-1-2 was the result of the Commission's Ad Hoc Committee on Industry Safety Issues reviewing 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.
Amendment to Rule 325:20-1-15 was proposed by the Commission's Ad Hoc Committee on Industry Safety Issues in order to make the Paddock Judge responsible for inspecting shoes and verifying if a horse is properly shod.
Amendment to Rule 325:20-1-24 was also proposed by the Commission's Ad Hoc Committee on Industry Safety Issues in order to eliminate the responsibility of the Horse Identifier for inspecting shoes and verifying if a horse is properly shod; that responsibility was placed with the Paddock Judge through a proposed amendment to Rule 325:20-1-15.
CONTACT PERSON:
Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 25, 2009:

325:20-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Horse Racing Act [3A:200 et seq.]

"Bar shoe" means a shoe with a closed heel protecting the horse's foot with an attached bar [i.e., egg bar, straight bar, heart bar].

"Bends" means a shoe which has had the heel bent downward; also known as "turn downs."

"Commissioner" means a member of the Oklahoma Horse Racing Commission.

"Day" means a 24-hour period ending at midnight.

"Declaration" means the act of withdrawing an entered horse from a race before the closing of entries.

"Draw" means the process of publicly assigning post positions and selecting contestants in a manner to insure compliance with the conditions of the rules of racing.

"Entry" means:

(A) A horse eligible for and entered in a race.

(B) Two (2) or more horses entered in the same race which have common ties of ownership, lease, or training.

"Hind shoes" means shoes worn on the rear feet of the horse.

"Horse" means:

(A) any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;

(B) an entire equine male five years of age and older.

"Inquiry" means:

(A) an investigation by the Stewards of potential interference in a contest prior to declaring the result of said contest official; or

(B) the Stewards or Commission investigation of a matter alleged to be related to the provisions of the Act or the rules of the Commission.

"Jar caulk" means small cleats inserted into the back end of a horse's shoe; most often used when the track surface becomes muddy, heavy or slick; also known as "mud caulks."

"Jockey" means a rider licensed to race.

"Memphis bar" means a narrow piece of metal welded across the quarters of the horse shoe, used singly, across the toe quarter and on hinds, providing more traction or break over on long footed horses.

"No contest" means a race canceled for any reason by the Stewards.

"Occupation license" means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

"Organization license" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"Post position" means the position in the starting gate assigned to the horse for the start of the race.

"Post time" means the scheduled time set for the arrival of the horses at the starting gate for the race.

"Program" means the published listing of all contests and contestants for a specific performance.

"Race" means a contest between horses.

"Race day" means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

"Restricted area" means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include but not be limited to the barn area, paddock, test barn, Stewards' tower, racecourse, mutuel line and money rooms, or any other area designated restricted by the organization licensee the Commission, or both. Signs giving notice of restricted access shall be prominently displayed at all entry points.

"Rules" means the rules adopted by the Commission to implement the provisions of the Act.

"Scratch" means the act of withdrawing an entered horse from a race after the closing of entries.

"Scratch time" means the deadline for withdrawal of entries after the closing of entries.

"Sticker" means a metal protrusion inserted/attached on one side of the shoe.

"Swedge" means a lengthwise indentation in the web of the horse shoe which fills with dirt, giving more traction than the horse shoe alone.

"Toe grab" means a metal bar welded lengthwise into the toe of a horse's shoe.

"Trainer" means a person qualified and licensed by the Commission as a Trainer.

"Traction device" means anything added to a horse shoe to enhance traction, including special nails, heel caulks, toe caulks, grabs, jar caulks, swedges and Memphis bars.

"Weigh in" means the presentation of a jockey to the clerk of scales for weighing after a race.

"Weigh out" means the presentation of a jockey to the clerk of scales for weighing prior to a race.

"Year" means a calendar year.

325:20-1-15. Duties of the Paddock Judge

(a) The Paddock Judge shall supervise the assembling of the horses scheduled to race, the saddling of horses in the paddock, the saddling equipment and changes thereof, the mounting of the jockeys, and their departure for the post. The Paddock Judge shall maintain a record of all the equipment utilized in the saddling of a horse, and shall provide a report on saddling equipment to the Stewards at their request. The Paddock Judge or the Paddock Blacksmith/Plater shall inspect all horses to ensure that they are properly shod and shall immediately report to the Paddock Judge and/or the Stewards any horse which is not properly shod.

(b) The following shall be prohibited on the front shoes of Thoroughbred horses while training and/or racing on any surface:

(1) toe grabs with a height of greater than 2 millimeters;

(2) bends;

(3) jar caulks;

(4) stickers; and

(5) any other traction device worn on the front shoes.

(c) Bar shoes may be used only with the consent of the Board of Stewards, and permission to discontinue their use must be obtained from the Stewards.

325:20-1-24. Duties of the Horse Identifier

The Horse Identifier shall identify all horses starting in a race. The Horse Identifier shall inspect documents of ownership, eligibility, registration, or breeding as may be necessary to ensure proper identification of each horse eligible to compete at a race meeting and provide assistance to the Stewards in that regard. The Horse Identifier shall immediately report to the Paddock Judge and the Stewards any horse which is not properly identified or any irregularities reflected in the official identification records. ~~The Horse Identifier shall ensure that all horses are properly shod prior to departure for the post.~~ The Horse Identifier shall check track facilities to ensure that they comply with Commission requirements. The Horse Identifier

shall report to the Stewards and to the Commission on general racing practices observed, and perform such other duties as the Commission may require.

[OAR Docket #09-504; filed 3-26-09]

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

[OAR Docket #09-505]

RULEMAKING ACTION:
PERMANENT final adoption
RULE:
325:45-1-6. Authorized medication [AMENDED]
AUTHORITY:
75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission
DATES:
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SUPERSEDED EMERGENCY ACTIONS:
Not Applicable
INCORPORATED BY REFERENCE:
Not Applicable
ANALYSIS:
Amendment to Rule 325:45-1-6 was proposed by the Commission's Ad Hoc Committee on Medication Rules 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 makes 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.
CONTACT PERSON:
Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 25, 2009:

325:45-1-6. Authorized medication

(a) The Commission recognizes that therapeutic medications are necessary to preserve the health and welfare of horses and that horses in training, like all other athletes, may at times require the administration of certain therapeutic medications to preserve their health.

(b) As authorized under the provisions of 3A O.S., § 208.11, Furosemide (Salix) and Phenylbutazone are medications or drug substances that may be administered to a horse (treated horse), as prescribed in this Chapter, which is entered to compete in a race.

(c) Except as otherwise authorized by the Commission, a horse participating in a race shall not carry in its body any drug, medication, substance, or metabolic derivative that:

(1) is a narcotic;

(2) could serve as an anesthetic or tranquilizer; or

(3) could stimulate, depress, or affect the circulation, respiratory, cardiovascular, musculoskeletal or central nervous system of a horse;

(d) A medication, drug, substance, or metabolic derivative thereof that might mask or screen the presence of prohibited drugs, or prevent or delay testing procedures shall be prohibited.

(e) The presence of anabolic steroids in a race horse is strictly prohibited except for the presence of the following approved anabolic steroids at plasma/serum levels below Commission-Sanctioned Thresholds:

(1) Stanozolol (Winstrol);

(2) Boldenone (Equipoise);

(3) Nandrolone; and

(4) Testosterone.

(f) Testosterone at levels above the normal physiological state of the stallion, gelding or mare is strictly prohibited. A violation of this Anabolic Steroid Rule shall be regarded as a Class III violation under the penalty guidelines.

(g) The Commission shall establish a procedure for out-of-competition screening for anabolic steroids. The cost of out-of-competition testing shall be the responsibility of the owner of the tested horse.

(~~e~~ h) Therapeutic medications in excess of Commission-Sanctioned Threshold levels established by Commission Directive [3A:205.2(H)]. Said directive shall be conspicuously posted within the enclosure by the Official Veterinarian.

(~~f~~ i) Substances present in a horse in excess of concentrations at which substances could occur naturally shall be prohibited.

(~~g~~ j) It shall be prima facie evidence that a horse had been administered and carried a drug, medication, substance, or metabolic derivative thereof, prohibited by this Section while running a race if:

(1) a saliva, urine, blood or other sample or specimen from the horse was taken pursuant to Rule 325:45-1-18 in this Chapter; and

(2) the Primary Laboratory detected a drug, medication, substance, or metabolic derivative thereof, prohibited by or in excess of Commission-Sanctioned Threshold levels established by Commission Directive [3A:205.2(H)]. Said directive shall be conspicuously posted within the

enclosure by the Official Veterinarian. The Affidavit submitted by the Primary Laboratory shall be supported by urine and~~.~~/or plasma/serum results.

[OAR Docket #09-505; filed 3-26-09]

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

[OAR Docket #09-506]

RULEMAKING ACTION:
PERMANENT final adoption
RULE:
325:75-1-15. Distribution of funds for Oklahoma-Bred pari-mutuel races [AMENDED]
AUTHORITY:
75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission
DATES:
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SUPERSEDED EMERGENCY ACTIONS:
Not Applicable
INCORPORATED BY REFERENCE:
Not Applicable
ANALYSIS:
Amendment to Rule 325:75-1-15 was proposed by the Oklahoma Thoroughbred Association and the Oklahoma Quarter Horse Racing Association for the percentages to be changed, allowing the Oklahoma-Bred payouts to be uniform among the breeds and racetracks and resulting in less confusion for Oklahoma-Bred participants.
CONTACT PERSON:
Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 25, 2009:

325:75-1-15. Distribution of funds for Oklahoma-Bred pari-mutuel races

(a) The distribution of monies from the Oklahoma Breeding Development Fund Special Account for any race meeting except as provided in (b) and (c) of this Section shall be as follows:

~~(1) Seventy percent (70%) to purse supplements for owners of winning accredited Oklahoma-Bred horses in certain races, as established in 325:75-1-14;~~

~~(2) Twenty percent (20%) to the breeders of winning accredited Oklahoma-Bred horses for Broodmare Awards, except for accredited Thoroughbred horses classified as Oklahoma-Bred foaled will receive one-half ($\frac{1}{2}$) of this designated award. The remaining or undistributed monies will be held in trust for Stallion Owners to be awarded in the following manner: At the conclusion of the calendar year the top ten accredited Thoroughbred Oklahoma-Bred stallions will be determined and ranked by the amount of Oklahoma-Bred money earned, and those stallions will receive a Stallion Bonus Award from the undistributed trust based on the stallion's percentage of earnings of the top ten accredited Thoroughbred stallions' total earnings.~~

~~(3) Ten percent (10%) to the owners of the sires of winning accredited Oklahoma-Bred horses for Stallion Awards.~~

~~(b) The distribution of monies from the Oklahoma Breeding Development Fund Special Account for a non-Thoroughbred mixed breed race meeting shall be as follows:~~

~~(1) Sixty percent (60%) to purse supplements for owners of winning accredited Oklahoma-Bred horses in certain races, as established in 325:75-1-14;~~

~~(2) Twenty-seven and one-half percent (27.5%) to the breeders of winning accredited Oklahoma-Bred horses for Broodmare Awards;~~

~~(3) Twelve and one-half percent (12.5%) to the owners of the sires of winning accredited Oklahoma-Bred horses for Stallion Awards.~~

~~(c) The distribution of monies from the Oklahoma Breeding Development Fund Special Account for Thoroughbred horses at any straight Thoroughbred race meeting, and for any horse at any fair race meeting, shall be as follows:~~

(1) Fifty percent (50%) to purse supplements for owners of winning accredited Oklahoma-Bred horses in certain races, as established in 325:75-1-14;

(2) Thirty-four percent (34%) to the Breeders of winning accredited Oklahoma-Bred horses for Broodmare Awards, except for an accredited Thoroughbred ~~horses~~ classified as Oklahoma-~~Bred~~ foaled, will receive one-half ($\frac{1}{2}$) of this designated award. The remaining or undistributed monies will be held in trust for Stallion Owners to be awarded in the following manner: At the conclusion of the calendar year the top ten accredited Thoroughbred stallions will be determined and ranked by the amount of the Oklahoma-Bred money earned, and those stallions will receive a Stallion Bonus Award from the undistributed trust based on the stallion's percentage of earnings of the top ten accredited Thoroughbred stallions' total earnings.

(3) Sixteen percent (16%) to the owners of the sires of winning accredited Oklahoma-Bred horses for Stallion Awards.

(~~d~~b) At any mixed breed race meeting, no less than ten percent (10%) of the Oklahoma Breeding Development Fund Special Account generated at said race meeting shall be available for distribution as authorized in (a) or (b) of this Section for stakes races and/or feature races as authorized by the Commission in 325:75-1-14 at the track where such funds were generated. Any distribution contemplated herein shall be made available on a pro rata basis per breed based on pari-mutuel handle per breed at the preceding race meeting as it relates to total handle at the preceding race meeting at such track.

(~~e~~c) At any straight Thoroughbred race meeting, no less than ten percent (10%) of the Oklahoma Breeding Development Fund Special Account generated at said race meeting shall be made available for distribution as authorized in (c) of this Section for stakes races and/or feature races as authorized by the Commission in 325:75-1-14 at the track where such funds were generated.

(~~f~~d) Excepting feature races as authorized by the Commission in 325:75-1-14, the official order-of-finish distribution amounts authorized in (a), (b), and (c) of this Section shall be as follows:

(1) Fifty percent (50%) total to the winning accredited Oklahoma-Bred horse and the accredited Oklahoma-Bred broodmare and sire of such horse, if any as prescribed in subsections (a), (b), and (c) of this section;

(2) Thirty percent (30%) total to the place accredited Oklahoma-Bred horse and the accredited Oklahoma-Bred broodmare and sire of such horse, if any as prescribed in subsections (a), (b), and (c) of this section; and

(3) Twenty percent (20%) total to the show accredited Oklahoma-Bred horse and the accredited Oklahoma-Bred broodmare and sire of such horse, if any as prescribed in subsections (a), (b), and (c) of this section.

(~~g~~e) The official order of finish distribution amounts authorized by the Commission for feature races, if any, as established in 325:75-1-14, shall be determined by the Commission.

(~~h~~f) As approved by the Commission, five percent (5%) of the unclaimed ticket proceeds shall be available to the Commission for distribution for equine research.

[OAR Docket #09-506; filed 3-26-09]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 80. GAMING LICENSING REQUIREMENTS

[OAR Docket #09-507]

RULEMAKING ACTION:
PERMANENT final adoption
RULE:
Subchapter 5. Gaming Licenses and Applications
325:80-5-5. Conditions of a Racetrack Gaming Operator License [AMENDED]
AUTHORITY:
75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission
DATES:
Comment Period:
November 17, 2008 through December 18, 2008
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SUPERSEDED EMERGENCY ACTIONS:
Not Applicable
INCORPORATED BY REFERENCE:
Not Applicable
ANALYSIS:
Amendment to Rule 325:80-5-5 was proposed since the Commission Law Enforcement Agents have been somewhat unsuccessful in securing certain information relating to the racetrack security department's reporting procedures. The Commission Law Enforcement Division believes that, with the added language, the racetrack will comply with reporting procedures with a higher sense of urgency.
CONTACT PERSON:
Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 25, 2009:

SUBCHAPTER 5. GAMING LICENSES AND APPLICATIONS

325:80-5-5. Conditions of a Racetrack Gaming Operator License

In addition to conditions imposed in any conditional license issued by the Commission, the original and/or renewal licenses issued by the Commission are subject to the following conditions:

(1) With respect to a Racetrack Gaming Operator Licensee, the Licensee will at all times make its Gaming Facility and Racetrack Premises available for inspection by the Commission or the Oklahoma State Auditor and Inspector or their authorized representatives, with or without prior announcement. Additionally, the Licensee understands that a Gaming Agent is authorized to be present anywhere within the Gaming Facility each day any time during operation of the Gaming Facility, and whenever

else deemed appropriate by the Commission Director of Law Enforcement.

(2) The Licensee consents to the examination of all accounts, bank accounts, and records of, or under the Control of the Licensee, or any entity in which the Licensee has a direct or indirect Controlling interest. Upon request of the Commission or its authorized representative, the Licensee must authorize all third parties in possession or Control of the requested documents to allow the Commission or the Oklahoma State Auditor and Inspector or their representatives to examine such documents.

(3) The Licensee accepts all risks of adverse public notice, embarrassment, criticism, damages, or financial loss that may result from any disclosure or publication of material or information supplied to the agency in connection with any application to the Commission.

(4) The Licensee will be responsible for all applicable registration, taxation, and licensing imposed by the Act or other State law upon the license, Gaming Machine, or associated equipment.

(5) The Licensee shall observe and enforce the Rules. The gaming license is granted on the condition that the Licensee, its officials, its employees and its concessionaires shall obey all decisions and orders of the Commission. Each Licensee shall have a continuing duty to report to the Commission Law Enforcement Division any violation of the Rules or applicable Laws of the State of Oklahoma by the Licensee, its officials, its employees or other occupational licensees, and its concessionaires. Failure to report violations will result in disciplinary action against the Licensee.

[OAR Docket #09-507; filed 3-26-09]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 90. GAMING OPERATIONS

[OAR Docket #09-508]

RULEMAKING ACTION:
PERMANENT final adoption
RULE:
Subchapter 5. Unresolved Patron Disputes
325:90-5-1. Unresolved patron disputes [AMENDED]
AUTHORITY:
75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission
DATES:
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SUPERSEDED EMERGENCY ACTIONS:
Not Applicable
INCORPORATED BY REFERENCE:
Not Applicable
ANALYSIS:
Amendment to Rule 325:90-5-1 was proposed by a Commission Gaming Agent to provide a time limit for a patron to submit an appeal to the Commission Executive Director to result in a timely resolution of the issue.
CONTACT PERSON:
Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 25, 2009:

SUBCHAPTER 5. UNRESOLVED PATRON DISPUTES

325:90-5-1. Unresolved patron disputes

(a) This Subchapter deals with disputes between the Racetrack Gaming Operator Licensee and a patron involving a game outcome, prize, fee paid or other aspect of a player's use of an Authorized Game. In the event a dispute arises with a patron and the dispute is not resolved to the patron's satisfaction within two hours, the Racetrack Gaming Operator Licensee must notify the patron that the patron has a right to contact a Gaming Agent regarding the dispute.

(b) A Racetrack Gaming Operator Licensee must immediately notify the Gaming Agent if the Racetrack Gaming Operator Licensee refuses to pay alleged winnings to a patron and the Racetrack Gaming Operator Licensee and the patron are unable to resolve the dispute to the patron's satisfaction within two hours. This notice, which must be in writing, shall include the following information:

(1)The name, address and phone number of the patron.

(2) The nature of the dispute.

(3) The amount of money involved in the dispute.

(4) The number of machines involved and the name of the game involved.

(c) Upon receipt of such notice, the Gaming Agent may assist the parties in trying to resolve the dispute. Patron disputes not resolved to the patron's satisfaction within 48 hours of the occurrence of the dispute shall be decided by the Commission in the following manner. The initial determination of unresolved disputes involving $500.00 or less will be made by the Gaming Agent. The Gaming Agent will conduct whatever review he/she deems necessary and will determine whether payment should be made to the patron. The determination

shall be based on a review of all available surveillance tapes, Gaming Machine records, and required written statements from both the Racetrack Gaming Operator Licensee and the patron. The Racetrack Gaming Operator Licensee shall make all audio/visual tapes and records available to the Gaming Agent with failure to do so resulting in an automatic decision in favor of the patron.

(d) The Gaming Agent's determination shall be made in writing and state the factual and legal basis for the decision unless both the Racetrack Gaming Operator Licensee and the patron waive this requirement and agree to an expedited verbal decision by the Gaming Agent. Expedited, verbal decisions shall be final and unappealable, and the patron shall be advised of this fact before waiving his/her right to a written determination. Written decisions are appealable to the Executive Director, the appeal must be sent to the Executive Director in writing by the patron and received within 10 calendar days of the initial determination by the Agent, and the Executive Director's decision is appealable to the District Court under the provisions of the Oklahoma Administrative Procedures Act.

(e) Unresolved disputes involving more than $500.00 will be initially decided by the Executive Director. The Executive Director's decision in all instances shall be in writing and shall be based on a review of all available surveillance tapes, Gaming Machine records, required written statements from both the Racetrack Gaming Operator Licensee and the patron. The Executive Director's decision may be appealed to the Commission and thereafter to the District Court under the provisions of the Oklahoma Administrative Procedures Act.

[OAR Docket #09-508; filed 3-26-09]

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

[OAR Docket #09-487]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
340:1-1-18 [AMENDED]
Reference APA WF (08-17)
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.
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ANALYSIS:
The revisions to Subchapter 1 of Chapter 1 of Title 340 amend the rules to reflect current strategic planning practices.
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 25, 2009:

SUBCHAPTER 1. GENERAL PROVISIONS

340:1-1-18. Strategic planning ~~system~~

(a) **Strategic planning ~~system~~.** ~~The Oklahoma Department of Human Services (OKDHS) strategic~~ Strategic planning:

(1) ~~system~~ is an ongoing process that assists the Director of Oklahoma Department of Human Services (~~Director~~OKDHS) in managing the activities of OKDHS~~, particularly in regard~~ to ~~ensuring that~~ support the OKDHS mission ~~is adequately pursued within the resources available.~~;

(2) allows OKDHS to be more responsive in a rapidly changing environment;

(3) uses organizational assessments to provide the foundation for the development and implementation of strategy; and

(4) assists OKDHS leadership, including the Director, Oklahoma Commission for Human Services (Commission), and executive team in establishing the mission, values, and vision.

(A) Organizational divisions collaborate to identify relevant goals and objectives based on organizational competencies and mandates.

(B) All core activities of OKDHS are aligned to implement the mission of OKDHS.

(b) **The OKDHS mission describes the purpose of the agency.** The OKDHS mission is to help individuals and families in need help themselves lead safer, healthier, more independent and productive lives. The Commission ~~for Human Services (Commission) approved~~ reaffirmed the mission on June ~~13~~12, ~~2000~~2007.

(c) **The OKDHS values describe the manner in which staff ~~strive~~ strives to work.** The OKDHS values and guiding principles, approved by the Commission on June ~~13~~12, ~~2000~~ 2007, are described in (1) through (~~3~~5) ~~of this subsection~~.

(1) Safety. We protect and serve vulnerable adults and children and reduce the risk of harm to individuals and families.

(~~1~~2) Respect.

~~(A) We believe in the human dignity of every person and that each person has a purpose for living.~~

~~(B)~~ We ~~will~~ treat ~~all people~~ everyone with ~~dignity~~ courtesy, promote mutual respect, and ~~maximize the personal potential of each person we serve~~ honor individual and cultural differences.

(~~2~~3) Family.

(A) We ~~believe~~ build on the strengths in each family ~~unit is the basic foundation of our society~~.

(B) ~~We will strengthen each family we serve~~ Healthy families are the foundation of a healthy society.

~~(3) Accountability.~~

~~(A) We believe responsible actions enhance all relationships.~~

~~(B) We will be fiscally responsible in the administration of public resources.~~

(4) Relationships. We promote honest, dependable, and compassionate relationships and partnerships to build healthy families and communities.

(5) Excellence. We deliver prompt, accurate and courteous service in a fiscally responsible manner.

(d) **The OKDHS vision describes the business direction of the agency.** ~~The OKDHS vision is that by the year 2005,~~ OKDHS ~~will have~~ promotes:

(1) an engaged ~~and informed~~ local community. ~~DHS will tell the story of improved lives. An informed community will create more productive partnerships. We will promote community values in order to get at root causes, bring public awareness to problems, and change the image of human services. We will change the way the community sees our agency and the way the agency sees itself;~~

(A) A community is a place or group of people that promotes individual responsibility and the shared responsibility for the care of its vulnerable members. Interdependent, trustworthy relationships form healthy communities that meet the needs of its members.

(B) OKDHS will be a trustworthy, dependable, participating member of the communities we serve. The healthy relationships we develop promote individual, family, and child well-being. OKDHS will be flexible in the development and delivery of meaningful services;

(2) creative solutions to complex challenges. ~~"The way we've always done it" will not suffice in today's world. We will stretch ourselves and our agency to find creative solutions for the challenging issues facing individuals and families. We will demonstrate service, not only to our external clients, but to our internal clients as well; and~~ OKDHS will continually seek new solutions that help the individuals and families we serve;

(3) a technological advantage. ~~DHS~~ OKDHS will operate with greater knowledge, efficiency and effectiveness ~~because we have maximized decision-making and communications technology.~~ through improved technological solutions that add value to services and reduce costs; ~~Relationships will be enhanced – client to agency, agency to agency, division to division, and person to person. We will narrow the digital divide, expanding capabilities and providing clients better service.~~

(4) positive outcomes. OKDHS will equip individuals and families to make life choices that help them lead safer, healthier, more independent and productive lives through education and training; and

(5) partnerships with others. OKDHS will partner with public and private organizations to produce the best outcomes possible for the individuals and families we serve.

(e) **Goals.** ~~Goals are established by the Director and approved by the Commission.~~ OKDHS goals are developed to focus all activities of the agency toward attaining the OKDHS mission, values, and vision. Goals are projected for long-term outcomes and reviewed annually by the Director to ensure their continued appropriateness. Identified changes in the OKDHS goals are submitted to the Commission for approval. Outcome measures are identified for each goal and approved by the Director. Targets are set for critical success measures, which are tracked on a monthly basis.

~~(f) **Business plan.** Annually, each division is responsible for developing and submitting, with its proposed budget, a business plan from which the OKDHS business plan is developed.~~

~~(g) **Office of Planning, Policy, and Research (OPPR).** Annually, OPPR is responsible for coordinating and updating the OKDHS business plan.~~

(~~h~~f) **Key indicators.** Key indicators are performance measures for ~~each~~ OKDHS business ~~function~~ functions. Each division ~~administrator~~ director or designee is responsible for establishing key indicators and setting targets against which performance is measured. The Director conducts a quarterly review of key indicator performance.

[OAR Docket #09-487; filed 3-25-09]

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

[OAR Docket #09-489]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 39. Planning, Research, and Statistics
340:2-39-1 [AMENDED]
Reference APA WF (08-18)

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.

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ANALYSIS:
Chapter 2 rules are amended to reflect the role and purpose of the Office of Planning, Research, and Statistics (OPRS).
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 25, 2009:

SUBCHAPTER 39. PLANNING, RESEARCH, AND STATISTICS

340:2-39-1. Office of Planning, ~~research~~ Research, and ~~statistics~~ Statistics

(a) **Purpose.** The ~~purpose of the~~ Office of Planning, Research, and Statistics (OPRS) ~~is to~~:

(1) ~~promote the growth and development of strategic planning~~ conducts data-driven research and statistical analysis of Oklahoma Department of Human Services (OKDHS) programs and services, including grant evaluation;

(2) ~~encourage and support data-driven decision making~~ collaborates with OKDHS divisions to communicate and disseminate information regarding OKDHS research, programs, and services;

(3) ~~provide technical support regarding research, statistical analysis, and grant proposals~~ serves as the official clearinghouse for language translation, forms, and appendices for OKDHS;

(4) ~~support optimization of federal, state, and other resources in support of the Oklahoma Department of Human Services (OKDHS) mission~~ provides technical assistance in designing, developing, and implementing strategic planning for OKDHS; and

(5) ~~assess whether policies and practices are attaining desired results or outcomes; and~~ maintains program statistics and prepares policy-related analysis and a variety of complex state reports.

~~(6) assist in re-engineering policies and other forms of communications as needed to attain desired results or outcomes.~~

(b) **Reports.** OPRS prepares and files ~~reports for~~ the:

~~(1) Social Services Block Grant (SSBG), Title XX of the federal Social Security Act, which includes the:~~

~~(A) Report of Intended Expenditures for each federal fiscal year that is submitted to the U.S. Department of Health and Human Services (DHHS) on or before September 30 of each year, per Section 96.10 of Title 45 of the Code of Federal Regulations (45 CFR § 96.10);~~

~~(B) Report of Actual Expenditures for each federal fiscal year that is submitted to DHHS on or before March 31 of each year per 45 CFR § 96.74; and~~

~~(C) a notice of submittal for each report that is published on the OKDHS Internet on or before the respective submitted date;~~

(~~2~~1) OKDHS Annual Report, required by Section 162~~(f)~~ of Title 56 of the Oklahoma Statutes (56 O.S. § 162~~(f)~~), ~~that is produced and submitted~~ each year to the Governor on or before November 1; and

(~~3~~2) OKDHS Strategic Plan, required by 62 O.S. § 45.3~~(A)~~, ~~that is produced and submitted~~ every two years as described in OAC 340:1-1-18.

[OAR Docket #09-489; filed 3-25-09]

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

[OAR Docket #09-488]

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PERMANENT final adoption
RULES:
340:15-1-4 [AMENDED]
340:15-1-6 [AMENDED]
(Reference APA WF 08-19)
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.
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ANALYSIS:
Chapter 15 rules are amended 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).
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2009:

340:15-1-4. State Supplemental Payment plan

The State Supplemental Payment (SSP) plan for the aged, blind, ~~and~~ or disabled encompasses the requirements listed in (1) through (11) of this subsection.

(1) **State-wide operation.** The plan is in effect in all counties of Oklahoma as a state-administered program.

(2) **Financing.** The State of Oklahoma provides all the money for financing the SSP Program.

(3) **Single state agency.** The SSP Program is administered by the Oklahoma Department of Human Services (OKDHS) with an office in each county in the state, operating under rules ~~and regulations~~ adopted by the Oklahoma Commission for Human Services (Commission).

(4) **Fair hearings.** ~~Any individual whose~~ An applicant or recipient of SSP is provided an opportunity for a fair hearing when:

(A) the application is denied or is not acted upon with reasonable promptness;~~, or~~

(B) ~~who~~ he or she is dissatisfied with the amount of his or her payment; or

(C) he or she disagrees with any other action taken in regard to his or her payment~~, is provided an opportunity for a fair hearing~~.

(5) **Proper and efficient administration.** OKDHS operates under the State Merit System which establishes and maintains personnel standards on a merit basis for certain state agencies, including OKDHS. Employees of OKDHS engaged in the administration of the Combined State Plan are covered by the Merit System.

(6) **Safeguarding of information.** ~~State laws~~ In accordance with Section 183 of Title 56 of the Oklahoma Statutes and ~~the rules and regulations adopted by the Commission restrict~~ OAC 340:1-1-20, OKDHS restricts the use of or disclosure of information concerning SSP applicants and recipients to purposes directly connected with the administration of this program.

(7) **Right to apply.** A person has the right to:

(A) make application for any category of assistance he or she chooses~~, to~~;

(B) expect an investigation of eligibility~~,~~; and ~~to~~

(C) expect a reasonably prompt decision in regard to his or her application.

(8) **Assistance under only one program.** An eligible person can have his or her needs included in only one SSP or Temporary Assistance for Needy Families (TANF) benefit.

(9) **Standards for determining eligibility and amount of payment.** Uniform policies for determination of eligibility and the amount of payment are provided in OAC 340 Chapters 15 and 65 and OKDHS Appendix C-1, Maximum Income, Resource, and Payment Standards.

(A) SSP standards are based on the mandatory "Pass-Along Provision" of Section 1618 of the Social Security Act which requires states to pass along cost of living adjustments (COLA) in Supplemental Security Income (SSI) benefits. The Commission approves adjustments in individual payments to maintain total expenditures for SSP in a calendar year at the same level as the total expenditures for SSP in the previous year.

(B) Maximum income and resource standards for ~~individuals~~ persons who are aged, blind, or disabled are based on the federal benefit rates (FBR) shown on OKDHS Appendix C-1, Schedule VIII.

(i) Countable income for SSP must be less than 100% of the FBR plus the maximum SSP amount.

(ii) Countable income must be equal to or less than 300% of the FBR for certain ~~individuals~~ persons who since December, 1973:

(I) were approved for care and continuously living in a licensed Title XIX nursing care facility, intermediate care facility (ICF), or ICF for the mentally retarded (ICF/MR) ~~since December, 1973,~~; ~~including~~

(II) ~~non-eligible SSP individuals who receive~~ have continuously received Home and Community-Based Waiver Services for the Mentally Retarded; or

(III) were patients 65 ~~and~~ or older and have continuously resided in a mental hospital ~~must be equal to or less than 300% of the FBR~~.

(iii) Countable income for deeming income to a minor child who is blind or disabled must be less than 100% of the FBR.

(iv) Maximum resources must be equal to or less than 100% of the SSI resource standards.

(10) **Income and resources.** OKDHS, in determining need for an aged, blind, or disabled ~~individual~~ person, takes into consideration any available income and resources of the ~~individual, except the income and resources required to be disregarded by~~ person in accordance with rules at OAC 317:35-5-41 and 317:35-5-42 and federal and state law ~~or by OKDHS policy~~.

(11) **Civil rights.** The SSP Program is administered in accordance with the provisions of Title VI of the Civil Rights Act.

340:15-1-6. Special requirements

(a) **Solicitation of alms.** ~~State law~~ Section 164 of Title 56 of the Oklahoma Statutes provides that a recipient of a State Supplemental Payment (SSP) for the blind shall not, during the period of receiving assistance, solicit alms. Soliciting alms means collecting donations for one's personal benefit, selling minor articles when selling is merely a subterfuge for collecting donations, and any similar activities. It does not include house-to-house sale of articles carried on as a regular established occupation. The client's statement regarding solicitation of alms is sufficient verification if there are no facts to the contrary.

(b) **Minor child who is blind or disabled.** In determining eligibility of a child who is blind or disabled, the income and resources of the parent(s) with whom the child is living are considered unless the parent(s) is included in a SSP or Temporary Assistance for Needy Families (TANF) application or benefit.

(1) **Deeming of income.** Income of a natural or adoptive parent(s), or step-parent and own parent must be deemed to a minor blind or disabled child who is under age 18 when determining eligibility for a SSP. Income of an ineligible child is not deemed. The parent(s)' income is not deemed if an eligible child is residing in a nursing care facility.

(2) **Deeming of resources.** For each child who is blind or disabled and under age 18 living with his or her parent(s) whose needs are not included in TANF benefit, or receiving Supplemental Security Income (SSI) and/or SSP, the parent(s)' resources which exceed the maximum amount allowable are deemed available to the child who is disabled. If there is more than one eligible child, the resource amount is prorated. If the minor child who is blind or disabled resides in a nursing care facility, the parent(s)' resources are not deemed to the child.

(3) **Exceptions.** A child who has mental retardation lives in his or her parent(s)' home and is ineligible for SSP due to the deeming process may be approved for ~~medical~~ SoonerCare (Medicaid) benefits under the Home and Community-Based Waiver (HCBW) Services for the Mentally Retarded Program as outlined in OAC 317:35-9.

(A) The child who is determined eligible under this provision by not deeming the parent(s)' income and resources is not eligible to receive a SSP.

(B) When both parents are in the home and one parent is included in a SSP case and the spouse is included in a TANF benefit with the child, the resources of both parents are evaluated in relation to eligibility for SSI and/or SSP and are not considered on the TANF case.

(C) All resources of the parent(s) are shown on the SSP case.

(c) **Age.**

(1) **Age requirement for the aged.** To be eligible for SSP for the aged, the individual must be 65 years of age or older as verified by the Social Security Administration, or by other sources of verification such as birth certificate, insurance policies, family records, or census records.

(2) **Age requirement for the blind.** There is no age requirement for a SSP for the blind. The age of a child who is blind must be verified in order to establish the need for designating a parent or guardian as payee if the child is younger than 16. When a recipient of a SSP for the blind reaches age 65, he or she is transferred to the category for the aged.

(3) **Age requirement for the disabled.** To be eligible for a SSP for the disabled, an applicant must be younger than 65. A parent or guardian must be designated as payee if a child who is disabled is younger than 16. When a recipient of a SSP for the disabled reaches age 65, he or she is transferred to the category for the aged.

(d) **Fleeing felon.** A fleeing felon is not eligible for a SSP. A fleeing felon is defined as a person who:

(1) is fleeing to avoid prosecution, custody, or confinement, after conviction under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees;

(2) is violating a condition of probation or parole imposed under federal or state law; or

(3) has lost SSI benefits due to being a fleeing felon.

(~~d~~e) **Overpayments.** A client may incur an overpayment in any SSP Program ~~when~~ for any month in which he or she receives a SSP after SSI benefits are terminated ~~and the worker does not take proper action when notified~~. ~~Any~~ The worker documents and computes the overpayment amount which includes any premiums for Health Insurance Benefits (HIB) paid by the Oklahoma ~~Department of Human Services (OKDHS)~~ Health Care Authority (OHCA) on behalf of an ineligible client ~~are computed by the Family Support Services Division Overpayment Section and added to the benefit amount received ineligibly~~ in accordance with rules at OAC 340:65-9.

[OAR Docket #09-488; filed 3-25-09]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 20. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM [LIHEAP]

[OAR Docket #09-490]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. Low Income Home Energy Assistance Program
340:20-1-5 [AMENDED]
340:20-1-10 through 340:20-1-11 [AMENDED]
340:20-1-14 [AMENDED]
(Reference APA WF 08-20)
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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.
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ANALYSIS:
Chapter 20 rules are amended 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.
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2009:

SUBCHAPTER 1. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

340:20-1-5. Coordination with Family Support programs

The Low Income Home Energy Assistance Program (LIHEAP) ~~will be~~ is coordinated with income support programs such as ~~Emergency~~ Diversion Assistance, Temporary Assistance to Needy Families (TANF), ~~with Children (if the program is available)~~ and ~~Emergency Food Stamps~~ TANF flex funds. If the household's need is for primary home energy, it is ~~to be~~ met through LIHEAP. ~~The Emergency~~ Diversion Assistance ~~to Families or Emergency Food Stamps~~ and TANF flex funds are ~~to be~~ used for emergency needs ~~which would~~ that are not ~~be~~ covered under LIHEAP. Payments made through LIHEAP are ~~to be~~ disregarded in all ~~DHS~~ Oklahoma Department of Human Services (OKDHS) programs.

340:20-1-10. Program factors

(a) **Home energy.** Home energy refers to a household's source of energy used for heating or cooling in a residential dwelling.

(b) **Primary energy source.**

(1) The primary energy source during winter months is the fuel used by the household for heating.

(2) If a cooling program is implemented during the summer months, the fuel type used for cooling is the primary energy source.

(3) In the event funds are available to assist with cooling through the Energy Crisis Assistance Program (ECAP), the primary energy source becomes the fuel used by the household for cooling.

(4) If an interim period is implemented between heating and cooling programs or as part of ECAP, the client may choose the primary energy source.

(c) **Household.** The term "household" refers to any ~~individual~~ person or group of ~~individuals~~ persons who are living together as one economic unit and for whom residential energy is customarily purchased in common, or who make undesignated payments for energy in the form of rent. There is one authorization for heating or cooling assistance per household.

(d) **Subsidized household.** A subsidized household is a household that receives assistance through a utility ~~allowance(s)~~ allowance to cover all or part of their energy cost, and/or which receives assistance in paying their rent or house payment on a regular basis. The assistance can be from a government agency, such as a local housing authority, or a private ~~individual~~ person, usually a relative, who helps ~~an individual~~ a person or family pay their utility bills, or the rent or house payment, or allows them to live rent free. Eligible subsidized households with out-of-pocket utility expenses receive the same heating assistance benefit as unsubsidized households.

(e) **Vulnerability.** A household is vulnerable if it is responsible, either totally or partially, for the cost of home energy. A vulnerable household includes a household whose source of home energy has been temporarily discontinued.

(1) **Apartment rental rates.** If apartment rental rates in college or university-owned apartment complexes are deliberately set lower than other apartments in the community in order to help the student, the household is considered a subsidized household.

(2) **Non-vulnerability.** Non-vulnerable households are those ~~which~~ that do not bear any of the expense of home energy.

(A) Examples of non-vulnerable living arrangements include:

(i) congregate or domiciliary facilities, such as nursing facilities and college or university dormitory, fraternity, or sorority housing;

(ii) households whose primary energy source is totally paid by someone other than a household member; and

(iii) subsidized households whose heating costs are included in their rent.

(B) Some subsidized households may be assessed an energy surcharge during the operation of the Low Income Home Energy Assistance Program (LIHEAP). These households might be eligible for heating assistance if they can document assessment of the surcharge.

(f) **Eligible households.** All households must:

(1) be vulnerable by being totally or partially responsible for the cost of home energy;

(2) not exceed the income and resource standards as shown on Oklahoma Department of Human Services (OKDHS) Appendix C-7, Low Income Home Energy Assistance Program Income and Resource Level by Household Size~~. The income amounts are established at 110% of the applicable Federal Poverty Guidelines~~; and

(3) ~~must~~ include at least one citizen or legal alien as defined in OAC 340:20-1-8~~;~~ and

~~(4)~~ may include an illegal alien.

(g) **Benefit amount.** The household benefit amount is based upon the household's size, income, and type of fuel. The benefit amount is not changed during the program year due to changes in household composition, income, or fuel type. ~~However, it~~ It is adjusted after the end of the heating application period if the total number of households finally approved for heating assistance in relation to the total federal funding available for heating assistance payments requires an adjustment.

~~(1)~~ There is no difference in the benefit levels between subsidized and unsubsidized households.

~~(2) Subsidized households whose heating costs are included in their rent are not vulnerable unless assessed a surcharge. Refer to OAC 340:20-1-10(e)(2).~~

340:20-1-11. Income and liquid resources

(a) **Income.** All gross earned and unearned income received by the household is considered in determining financial eligibility except for those income sources shown at (b) of this Section. Eligible households must meet the income standard less the earned income deduction as shown on Oklahoma Department of Human Services (OKDHS) Appendix C-7, Low Income Home Energy Assistance Program Income and Resource Level by Household Size.

(1) Income ~~which~~ that is received on an annual basis is prorated over 12 months to arrive at the average monthly income.

(2) If the income is not received on a regular monthly basis, refer to OAC 340:10-3-31.

(3) Total income is rounded to the nearest dollar.

(4) When ~~an individual's~~ a person's income is reduced due to recoupment of an overpayment or garnishment, the gross amount before the recoupment or garnishment is considered.

(5) When an illegal alien is part of an eligible household, the countable portion of his or her income is computed as outlined in (A) through (E) of this subsection.

(A) For each employed household member, subtract the earned income deduction as shown on OKDHS Appendix C-7.

(B) Add the unearned income of the illegal alien.

(C) Subtract the need standard on OKDHS Appendix C-1, Schedule of Maximum Income, Resource, and Payment Standards Schedule IX, for the appropriate number of persons. Persons counted for the need standard are the illegal alien and his or her illegal alien dependents who:

(i) are claimable for federal personal income taxes;

(ii) live in the same household; and

(iii) are not included in determining the Low Income Home Energy Assistance Program (LIHEAP) benefit level because they are illegal aliens.

(D) Subtract the actual amounts paid by the illegal alien to dependents not living in the household as well as actual child support and alimony payments to non-household members.

(E) The remaining amount is the amount considered available to the household members eligible for LIHEAP.

(b) **Income disregards.** In determining income, disregard:

(1) the food benefit amount under the ~~Food Stamp Act of 1977~~ Food and Nutrition Act of 2008;

(2) any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(3) educational grants, including work study, or scholarships, that are contingent upon the student regularly attending school. The student's classification, whether graduate or undergraduate, is not a factor;

(4) loans, regardless of use, if a bona fide debt or obligation to pay can be established.

(A) Criteria to establish a loan as bona fide includes an acknowledgment of obligation to repay or evidence that the loan is from ~~an individual~~ a person or financial institution in the loan business.

(B) If the loan is from a person(s) not in the loan business, the borrower's acknowledgment of obligation to repay, with or without interest, is required to indicate that the loan is bona fide;

(5) Indian payments including judgment funds or funds held in trust and distributed per capita by the Secretary of the Interior Bureau of Indian Affairs (BIA) or distributed by the tribe subject to approval by the Secretary of the Interior. Also, disregard any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds. Any per capita payments, for example, headrights of Osage tribe, income from mineral leases, or other tribal business ventures, are disregarded as long as they meet the distribution requirements as stated in this paragraph. Any interest or income derived from the principal or produced by purchases made with the funds after distribution is considered as any other income;

(6) special allowance for school expenses made available upon petition in writing from trust funds of the student;

(7) benefits from State and Community Programs on Aging [Title III]. Income from the Older American Community Service Employment Act [Title V], including American Association of Retired Persons (AARP) and Green Thumb organizations as well as employment positions allocated at the discretion of the Governor of Oklahoma, is counted as earned income;

(8) unearned income received by a child receiving Temporary Assistance for Needy Families (TANF), such as a needs based payment, cash assistance, compensation in lieu of wages, or allowance, from a program funded by the Workforce Investment Act (WIA) including Job Corps income, and WIA earned income received as wages, not to exceed six months in any calendar year;

(9) payments for supportive services or reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE);

(10) payments to volunteers under the Domestic Volunteer Service Act of 1973, Volunteers in Service to America (VISTA), unless the gross amount of VISTA payments equals or exceeds the state or federal minimum wage, whichever is greater;

(11) the value of supplemental food assistance received under the Child Nutrition Act or the special food service program for children under the National School Lunch Act;

(12) any portion of payments, made under the Alaska Native Claims Settlement Act to an Alaska native, which are exempt from taxation under the Settlement Act;

(13) Experimental Housing Allowance Program (EHAP) payments made under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937, as amended;

(14) earnings of a minor dependent child who is a full-time student;

(15) rental or housing subsidies by governmental agencies, for example, United States Department of Housing and Urban Development (HUD), received in-kind or in cash for rent, mortgage payments, or utilities;

(16) reimbursements from an employer for out-of-pocket expenditures and allowances for travel or training to the extent the funds are used for expenses directly related to such travel or training. Uniform allowances are disregarded if the uniform is uniquely identified with company name or logo;

(17) advance payments of Earned Income Tax Credit (EITC) or refunds of EITC as a result of filing a federal income tax return;

(18) refunds of state EITC as a result of filing a state income tax return;

(19) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the IN RE Agent Orange Product Liability Litigation, M.D.L. No. 381 (E.D.N.Y.) are not considered as income or as a resource in determining eligibility for or the amount of the benefit;

(20) payments received for Emergency Assistance to Needy Families with Children;

(21) Medicare buy-in premium;

(22) work related expenses that are applicable under the TANF Program;

(23) payments made by others on the household's behalf;

(24) in-kind benefits received by an employee from an employer in lieu of wages or in conjunction with wages;

(25) payments made under the Radiation Exposure Compensation Act (P.L. 101-426) enacted October 15, 1990;

(26) federal major disaster and emergency assistance provided under the Disaster Relief Act of 1974, and comparable disaster assistance provided by states, local governments, and disaster assistance organizations;

(27) interests of individual Native Americans in trust or restricted lands;

(28) income up to $2,000 per year received by individual Native Americans, which is derived from leases or other uses of individually-owned trust or restricted lands. Any remaining disbursements from the trust or the restricted lands are considered as income;

(29) payments made to ~~individuals~~ persons because of their status as victims of Nazi persecution; and

(30) monetary allowances as described in Section 1823(c) of Title 38 of the United States Code (USC) provided to certain ~~individuals~~ persons who are children of Vietnam War veterans.

(c) **Resources.** Liquid resources, such as cash on hand, checking or savings accounts, certificates of deposits, stocks or bonds, cannot exceed the allowable resource level as shown on OKDHS Appendix C-7. The applicant's statement is accepted as verification unless the information received is inconsistent or questionable.

340:20-1-14. Actions, method of payment, and notifications

Contingent upon the receipt of federal funding, one payment is made during the federal fiscal year to or on behalf of households included in paragraph (1) of this Section unless a situation arises which causes two payments to be made. ~~Examples of situations that cause two~~ Two or more payments ~~to~~ may be made ~~include~~ when there is a delay in federal funding or the release of contingency funds by the President.

(1) **Approvals.** Maximum household benefit levels are determined by fuel type, household size, and household income. Normally, one direct payment is made to designated energy suppliers on behalf of approved households. The payment is ~~normally~~ made ~~in February~~ on a weekly basis. The amount of the payment is the original household benefit level as adjusted, if necessary, based upon the total encumbrance for heating assistance in relation to federal funds available for payments.

(2) **Direct payments.** The same payment schedule in paragraph (1) of this Section applies for unsubsidized renters and roomers with utilities included in their rent, and for households whose energy source is wood, coal, heating oil, or kerosene, except payments are made directly to approved households.

(3) **Closures.** The ~~county office~~ worker authorizes closure of cases in which the household is no longer eligible. Closure is not authorized before the ~~county~~ worker has contacted the designated energy supplier and determined that the household has no outstanding debt with the supplier. If there is an outstanding debt, the case is not closed. The case automatically closes after the household's program benefit level has been paid.

(4) **Computer-generated notices.** Computer-generated notices are mailed ~~from State Office~~ to the applicant or recipient showing the action taken ~~on an energy case~~.

(A) ~~Notice #1, Form~~ LIHEAP-37-A, Notice of Eligibility/Authorization, is mailed to the applicant.

(B) ~~Notice #2, Form~~ LIHEAP-37-C, Notice of Eligibility, is mailed to the recipient. This notice is mailed for each authorization for a roomer or renter when fuel is included as a part of the shelter payment, and for households whose fuel source is wood, coal, kerosene, or oil.

(C) ~~Notice #3, Form~~ LIHEAP-37-D, Notice of Payment, is mailed to the recipient as notification that payment has been made to the energy supplier on his or her behalf.

(D) ~~Notice #4, Form~~ LIHEAP-37-E, Notice of Denial, is mailed to the applicant when an application has been denied.

(E) ~~Notice #5, Form~~ LIHEAP-37-F, Notice of Closure, is mailed to the recipient when the ~~county office~~ worker closes an authorization.

(F) ~~Notice #6, Form LIHEAP 37-K~~ PSNEN37K, ~~Special ABCDS Authorization~~ Utility Account Verification and Pre-Approval Notice, is mailed to ~~A, B, C, D, and S~~ clients who were pre-authorized for Low Income Home Energy Assistance Program (LIHEAP) heating assistance benefits. The notice advises the recipient that his or her heating assistance eligibility has been predetermined.

(G) ~~Notice #7, Form~~ LIHEAP-37-M, ~~Expedited Services/ECAP~~ Energy Crisis Assistance Program Notice of Payment, is mailed to the recipient as notification that payment has been made to the supplier on his or her behalf.

(5) ~~**County**~~ **Worker-generated notices.** The ~~county office~~ worker mails or issues Form ~~LIHEAP 37-J~~ 08LH003E, Notice of Eligibility for Energy Crisis Assistance, to the energy provider or to the recipient for delivery to the energy provider unless the provider is specifically exempted by the Family Support Services Division. The notice is issued by the ~~county~~ worker whenever the household meets eligibility requirements for crisis assistance.

[OAR Docket #09-490; filed 3-25-09]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 40. CHILD CARE ~~SERVICES~~ SUBSIDY PROGRAM

[OAR Docket #09-492]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Initial Application
340:40-3-1 [AMENDED]
Subchapter 5. Plan of Service
340:40-5-1 [AMENDED]
Subchapter 7. Eligibility
340:40-7-1 [AMENDED]
340:40-7-3 through 340:40-7-3.1 [AMENDED]
340:40-7-5 through 340:40-7-6 [AMENDED]
340:40-7-8 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)
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.
DATES:
Comment period:
December 15, 2008 through January 14, 2009
Public hearing:
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Submitted to Governor:
January 29, 2009
Submitted to House:
January 29, 2009
Submitted to Senate:
January 29, 2009
Gubernatorial approval:
March 2, 2009
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 25, 2009.
Final adoption:
March 25, 2009
Effective:
June 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 7. Eligibility
340:40-7-5 [AMENDED]

(Reference APA WF 08-10)
Gubernatorial approval:
October 31, 2008
Register publication:
26 Ok Reg 178
Docket number:
08-1332
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Chapter 40 rules are amended rules to: (1) remove internal procedures from rules; (2) add clarifying language regarding when a new application is required; (3) show 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) add clarifying language regarding the process to follow when a household member is temporarily absent; (7) add clarifying language regarding how child support income received for a minor parent is considered; (8) replace outdated language and terminology; (9) add clarifying language regarding the change of payee process; (10) refer payment information regarding in-home providers to the applicable appendix; (11) 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 Subsidy Section; (12) 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 (13) add rules regarding citizenship for subsidized child care assistance.
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2009:

SUBCHAPTER 3. INITIAL APPLICATION

340:40-3-1. Application process

(a) **Application process.** The application process for subsidized child care benefits begins with a request for an application form and ends with determining the household's eligibility and entering that determination into the computer system. The Child Welfare or Family Support Services worker processes the application.

~~(1) **Staff responsible for processing the application.** A Family Support Services (FSS) worker completes all applications when an eligibility determination for a family must be made. FSS workers also complete applications for children in tribal custody, children under an Interstate Compact on the Placement of Children (ICPC) with another state, or when Child Welfare (CW) staff contract with an outside agency to provide protective or preventive child care services. CW staff must process all applications made by CW foster parents for child care. In most instances, CW staff complete protective or preventive child care requests when they are working with the family and recommending protective or preventive child care.~~

(~~2~~1) **When an application is required.** A new application is required when:

(A) an applicant initially applies for subsidized child care benefits;

(B) ~~expedited eligibility processing was used in accordance with subsection (b) of this Section and requested verification is not returned within 60 calendar days of the application date~~ the client's subsidized child care benefits have been closed for more than 30 calendar days. This includes when expedited eligibility processing was used or when the client was approved for 30 calendar days of child care to search for a job in accordance with OAC 340:40-7-8(a)(6); or

(C) the payee for the subsidized child care benefits changes~~;~~.

~~(D) the client's subsidized child care benefits close after approval for 30 calendar days of child care to search for a job in accordance with OAC 340:40-7-8(a)(6); or~~

~~(E) the client's subsidized child care benefits have been closed for more than 30 calendar days.~~

(~~3~~2) **Who can apply.** An applicant or the applicant's authorized representative may apply for subsidized child care benefits. If an authorized representative applies on behalf of an applicant, he or she must bring a signed statement from the applicant giving this person permission to act on behalf of the applicant or the applicant must have designated this person as his or her authorized representative on the signed application.

(A) If the natural or adoptive parent or stepparent of the child is in the home, he or she is considered the applicant and eligibility is based on that parent's situation regardless of whether he or she has custody of the child.

(B) If both the natural and adoptive parent of the child are living in the same household and the adoption has been finalized, the adoptive parent is considered the applicant and eligibility is based on that parent's situation.

(C) If the natural or adoptive parent or stepparent is not in the home, the person acting in the role of the parent, referred to as the caretaker, is the applicant. The caretaker may or may not be related to the child.

(D) If the parent is a minor, either the minor parent or the responsible adult the minor is living with can be considered the applicant for the subsidized child care benefits. Eligibility is based on the minor parent's situation.

(E) If the natural or adoptive parent is living in the home but is too incapacitated to apply, someone else living in the home may apply for the natural or adoptive parent. The other person must provide proof of the parent's inability to apply.

(~~4~~3) **Application form.** An applicant or the applicant's authorized representative completes and signs Form 08MP001E, Request for Benefits, Form 08MP002E, Eligibility Information for Benefits, and Form 08MP003E, Responsibilities and Signature for Benefits, to apply for subsidized child care benefits. When child care is needed for a child with disabilities, the worker and applicant also

complete Form 08AD006E, Certification for Special Needs Child Care Rate.

(~~5~~4) **Date of request.** The date of request is the date the applicant requests subsidized child care benefits verbally or in writing.

(~~6~~5) **Date of application.** The date of application is the date the applicant or the applicant's authorized representative completes the child care interview and provides all necessary verification to the human services center. This includes providing the name of the child care provider the client wishes to use.

(A) The provider must already have a valid Oklahoma Department of Human Services (OKDHS) child care provider contract.

(B) See OAC 340:40-5-1(7) for reasons an applicant cannot choose certain child care providers.

(C) For applicants choosing an in-home provider, see OAC 340:40-13-1 and 340:40-13-2.

(~~7~~6) **Child care interview.** Child care interviews are typically completed face-to-face with the applicant or authorized representative. A face-to-face interview is required for protective or preventive child care requests and strongly recommended for special needs requests.

(~~8~~7) **Explanation of eligibility factors.** At the time of the initial interview, the worker advises the applicant or authorized representative of:

(A) his or her rights and responsibilities;

(B) all factors of eligibility including which child care providers are eligible to receive subsidy payment;

(C) the plan of service and reason child care may be approved based on the applicant's statements at interview;

(D) the applicant's electronic benefit transfer (EBT) responsibilities that includes viewing the client training video;

(E) the earliest date child care can be approved;

(F) the requirement to cooperate with the OKDHS Office of Inspector General during any audit or investigation of the applicant or the provider the applicant uses for child care; and

(G) the requirement to report within ten calendar days any changes in his or her circumstances.

(~~9~~8) **Timeliness.** Near real-time (NRT) benefit processing time frames are used for all child care applications. To be considered timely, the worker must determine eligibility within two working days of receiving all necessary verification to certify or deny the application. If the applicant does not provide requested verification, the worker denies the request within 30 calendar days of the date of request. The worker sends Form 08MP037E, Notice Regarding Social Services, explaining the reason for delay to any applicant whose application is over 30 calendar days old.

(~~10~~9) **Right to appeal.** The applicant has the right to appeal the untimely processing of a child care request or the decision of eligibility or ineligibility per OAC 340:2-5.

(b) **Expedited eligibility processing.** The worker must process an application immediately when required verification is beyond the applicant's control to provide, the applicant does not have the money to pay toward the cost of child care, and without child care the applicant:

(1) is in danger of losing a job; or

(2) cannot start a new job.

(c) **Eligibility determination.** The worker uses OKDHS Appendix ~~08AX005E~~ C-4, Child Care Eligibility/Co-payment Chart, to determine whether the household meets income guidelines. See OAC 340:40-5-1(8) for more information about income determination.

(1) **Applicant determined eligible.** The earliest date the worker approves subsidized child care benefits is the date the applicant provides all necessary verification to determine eligibility. The applicant is responsible for any child care used before the certification date or which is not part of the approved child care plan of service.

(A) The client swipes attendance with his or her EBT card through a point-of-service (POS) machine at the child care facility.

(B) OKDHS does not pay for care for any day the child attends child care if the client fails to swipe attendance unless extenuating circumstances exist beyond the control of the client and/or provider.

(C) If the client fails to swipe attendance, he or she is responsible for any care given for that day and may be responsible for any absent day payment OKDHS pays if all days the child attended were recorded.

(2) **Applicant determined ineligible.** The request or application is denied if the applicant is ineligible, does not provide needed verification, or requests cancellation of the application. A new application form is not needed when the applicant completes the application process and provides necessary verification within 60 calendar days of the original request date.

SUBCHAPTER 5. PLAN OF SERVICE

340:40-5-1. Plan of service

~~**Plan of service.**~~ Providing child care is part of an overall plan of service designed to help the parent or caretaker with whom the child lives to achieve his or her maximum potential for self-support. Quality child care services assure the parent or caretaker that each child has adequate care that affords developmental and learning experiences while the parent or caretaker is engaged in self-support activities. The plan of service consists of many components that all link to form a goal-directed plan of care, and includes the components in (1) through (11).

(1) **Child characteristics.** The worker gathers information about the child for whom child care is needed including his or her name, age, grade level, and whether the child has a disability.

(2) **Need for child care.** The worker determines whether the parent or caretaker meets a need factor in accordance with OAC 340:40-7-7 and 340:40-7-8.

(3) **Plan hours.** The worker gathers information about the days and hours the parent or caretaker meets the need factor, including travel time.

(A) When there are two parents or caretakers in the home, the worker only approves subsidized child care benefits when both parents or caretakers meet a need factor during the same hours in accordance with OAC 340:40-7-7 and OAC 340:40-7-8.

(B) Based on the days and hours the child requires care, the worker approves a full-time daily, part-time daily, a combination of full-time and part-time daily, weekly, or a blended unit type.

(4) **Alternative to subsidized child care benefits.** The worker explores with the client whether there is an appropriate, feasible alternative to Oklahoma Department of Human Services (OKDHS) subsidized child care benefits.

(A) If the alternative is a spouse or the natural or adoptive parent of the child who lives in the home, the client must use the alternative rather than subsidized child care benefits.

(B) If the alternative is someone else, the client has a choice whether to use this alternative ~~or not~~. Possible alternatives include:

(~~A~~i) care by a dependable relative who is able and willing to assume responsibility for care and supervision of the child for part of the day;

(~~B~~ii) care in a free or low cost facility, such as a preschool, pre-kindergarten, kindergarten, Head Start, Early Head Start, or tribal child care program;

(~~C~~iii) dependent care expenses that are considered as earned income exemptions, per OAC 340:10-3-33(3); and

(~~D~~iv) for a school age child, the rearrangement of the parent's or caretaker's employment or training schedule to coincide with the hours the child is in school.

(5) **Plan to increase income.** At each application or review the client and worker discuss ways the client can increase income to the household and identify the goals child care helps the family achieve. Together they estimate when the family can assume progressively greater responsibility for the cost of child care. The worker makes referrals to other agencies as appropriate and in accordance with OAC 340:40-7-9.

(6) **Back up plan.** The worker discusses with the client the back up plan for child care that is in place if the child cannot go to the usual provider because of illness, school holidays, or other unforeseen emergency. The back up plan includes the name and address of a person the client feels he or she can rely on when the normal plan of care cannot be used.

(7) **Choice of provider.** The worker documents the choice of provider on the application or review form.

(A) If the client does not choose a provider at the time of request, the worker provides the client with information to help in making the choice.

(B) The client may choose a family child care home regardless of star level.

(C) The client may not choose a child care:

(~~A~~i) facility that does not have a valid contract with OKDHS;

(~~B~~ii) facility in which the client or his or her spouse, including the child's parent or stepparent, has an ownership interest;

(~~C~~iii) home in which the child resides;

(~~D~~iv) home in which the client also works during the hours his or her child(ren) is in care unless an approval is obtained from the Family Support Services Division (FSSD), Child Care Subsidy Section;

(~~E~~v) provider who does not allow parental access during the hours the provider is caring for children;

(~~F~~vi) provider who is receiving state or federal funds, such as Head Start, Early Head Start, or public schools, unless:

(~~i~~I) all parents are charged a fee for the hours subsidy payment is requested; and

(~~ii~~II) the program offers extended day services. Programs operating only during typical school or Head Start hours are not eligible;

(~~G~~vii) provider caring for a school age child during the regular school day when such student could be attending a public or private school during those hours; or

(~~H~~viii) center, which is a one star facility unless there are no one plus, two, or three star centers in the community or special exception criteria are met. Special exception criteria are:

(~~i~~I) the child was already approved for care at this one star center prior to January 1, 2003 or prior to the provider's star status being reduced to one star. The child can remain at this facility unless the child stops attending there for more than 30 calendar days. The child may be approved at this same facility again if the only reason the child did not attend for more than 30 calendar days was because of a school break or due to circumstances beyond the control of the family such as illness of the child;

(~~ii~~II) care is requested for a child living in the same home as a child already approved for care as described in (H)(i) of this subsection for the same one star child care provider; or

(~~iii~~III) the parent or guardian demonstrates there is no other child care option that meets the family's needs.

(8) **Income determination.** Based on OAC 340:40-7, the worker determines who is considered part of the household for income determination, what income is countable, and what income is excluded. After determining the amount of countable household income, the worker uses OKDHS Appendix ~~08AX005E~~ C-4, Child Care Eligibility/Co-payment Chart, to determine whether

the household meets income guidelines. The OKDHS Appendix ~~08AX005E~~ C-4 is amended from time to time and the Commission for Human Services must approve any changes. If the income of the family exceeds the eligibility standard on the appendix or is above the income level on the appendix, the family is not eligible for subsidized child care benefits.

(9) **Family share co-payment.** The worker uses OKDHS Appendix ~~08AX005E~~ C-4 to determine the family share co-payment for each family. The family share co-payment is applied before OKDHS pays a child care subsidy. The amounts the family and OKDHS pay toward the cost of care varies depending on the plan of service, family size, income, and the number of children receiving subsidized child care benefits.

(10) **Social services requests.** When a client requests help in meeting the social services needs listed on the application or review form, the worker provides all available information to aid a client in meeting these needs.

(11) **Client rights and responsibilities.** The worker advises the client of rights and responsibilities listed in (A) through (G).

(A) A child care request is only approved back to the date of request when the interview is conducted and verification is provided on that same date.

(B) The client has the right to ask for a fair hearing if the client disagrees with an action taken on his or her case, per OAC 340:2-5.

(C) The provider may charge the client for special fees, such as enrollment or transportation fees, provided these fees are posted and also charged to the general public.

(D) The provider may charge the client for care provided in excess of OKDHS approved child care plan of service hours when the client chooses to leave the child in care longer. If the provider requires that all children in the facility begin care by a certain time of day and the client's child care plan hours start later, the provider must not charge the client for those additional hours. The client swipes attendance based on the child care plan hours.

(E) The provider may charge the client for any days OKDHS refuses to pay for care when:

(i) the client did not swipe attendance for the correct days and times his or her child attended child care;

(ii) swipes were denied and the client did not get them corrected within ten calendar days; or

(iii) the provider loses the absent day payment for a child approved for a weekly unit type because the client did not swipe correct attendance for every day the child attended that month.

(F) The provider may not charge the client for:

(i) days and hours covered in the child care plan when all attendance was correctly swiped even if the hours are more than customary for a full-time day; and

(ii) days the child is not in attendance.

(G) The client is required to cooperate with the OKDHS Office of Inspector General in any audit or investigation of possible overpayments by the client or by the client's chosen provider.

SUBCHAPTER 7. ELIGIBILITY

340:40-7-1. Categories of eligibility

A person may be predetermined eligible for a child care benefit, determined income eligible based on the gross income of the household, or have dual eligibility with his or her tribe.

(1) **Predetermined eligible.** A person is predetermined eligible for a child care benefit with a zero co-payment when he or she is a recipient of public assistance or Supplemental Security Income (SSI). Public assistance is defined as a State Supplemental Payment, Temporary Assistance for Needy Families (TANF) that includes Supported Permanency and non-cash vouchers a child receives from the TANF program, or Refugee Cash Assistance.

(A) All TANF recipients who ~~go to~~ work and are eligible for a child care benefit can choose to receive a child care benefit through the Oklahoma Department of Human Services (OKDHS) while they work or choose to pay for the child care themselves. If they choose to pay for the child care cost themselves, it can be considered as an earned income exemption for the TANF benefit.

(B) Exceptions to a person being eligible with a zero co-payment when he or she receives public assistance or SSI include when:

(i) ~~when~~ the recipient is a child and the parent or guardian requesting the benefit for the child is not the payee on the public assistance or SSI payment; or

(ii) ~~when~~ it makes a difference in whether other children in the household are income eligible for child care.

(2) **Income eligible.** Households who are not predetermined eligible for a child care benefit must meet income eligibility guidelines shown on OKDHS Appendix ~~08AX005E~~ C-4, Child Care Eligibility/Co-payment Chart, for their household size, to receive assistance with child care costs.

(3) **Transitional child care.** Per Section 230.61 of Title 56 of the Oklahoma Statutes, a TANF recipient who becomes employed is eligible for transitional child care benefits for 24 months following the date of employment as long as he or she meets income eligibility guidelines on OKDHS Appendix ~~08AX005E~~ C-4 for his or her household size unless the:

(A) ~~the~~ employer provides child care benefits; or

(B) ~~the~~ monthly salary received from the employer exceeds the monthly allowance of assistance pursuant to the TANF program plus the cost of child care and medical insurance to which the recipient would be entitled.

(4) **TANF families in the Work Supplementation Program.** TANF families in the Work Supplementation Program are considered income eligible families and must meet income eligibility guidelines shown on OKDHS Appendix ~~08AX005E~~ C-4 for their household size, to receive assistance with child care costs.

(5) **Dual eligibility.** ~~An individual~~ A person may have dual eligibility for both the ~~child care subsidy program~~ Child Care Subsidy Program through OKDHS and through his or her tribe. The child care provider may not receive payment for the same service from both programs simultaneously.

340:40-7-3. Age requirements

(a) A child is eligible for subsidized child care benefits through the day before he or she turns 13 years of age.

(b) A child with disabilities may be eligible to receive subsidized child care benefits through the day before he or she turns 19 years of age.

(1) A child with disabilities is defined at OAC 340:40-7-3.1.

(2) When a child with disabilities is 13 or older, the client must provide a statement from a licensed health care professional verifying that the child is physically or mentally incapable of self care as age appropriate before care is approved and annually at review. If the licensed health care professional states that the child is capable of self care as age appropriate, care is not approved.

(c) A child under court supervision may be eligible to receive subsidized child care benefits through the day before the child turns 19 years of age. When the child is 13 or older, the client must provide a copy of the court order, a statement from the Child Welfare worker, or the Office of Juvenile Affairs (OJA) worker verifying this before care is approved and annually at review.

340:40-7-3.1. Child with disabilities

(a) **Child with disabilities.** A child with disabilities is defined as a child who receives Supplemental Security Income (SSI), SoonerStart early intervention services provided in accordance with an Individualized Family Service Plan (IFSP), or special education services provided in accordance with an Individualized Education Program (IEP) by the local school district. This definition also includes a child whose SSI payment stops because of financial reasons but who still meets the medical definition of disability as determined by the Social Security Administration (SSA). When a child with disabilities is 13 or older, the client must provide a statement from a licensed health care professional verifying that the child is physically or mentally incapable of self care as age appropriate before care is approved and annually at review. If the licensed health care professional states that the child is capable of self care as age appropriate, subsidized child care benefits are not approved.

(b) **Special needs rate approval process.** The special needs rate, if approved, is paid in addition to the daily rate paid for a typical child. If a child does not meet the definition of a child with disabilities, the child is not eligible for a special needs rate. A child with disabilities may be approved for a moderate or severe special needs rate unit type after the special needs rate approval process is completed. If the worker determines that the parent or caretaker is eligible for subsidized child care benefits before the special needs rate approval process is completed, the worker approves the child for a typical child unit type. The process includes:

(1) the parent or caretaker must provide proof that the child meets the definition of a child with disabilities and information about the child's care needs.

(A) For a child under age three, the parent or caretaker submits the child's current ~~Individualized Family Service Plan (~~IFSP~~)~~ that verifies the child receives SoonerStart services and documents the care needs of the child.

(B) For a child over age three, the parent or caretaker submits the child's current IEP that documents the child receives special education services and documents the care needs of the child.

(C) If the child receives SSI, the parent or caretaker submits the child's award letter or other proof from ~~the~~ SSA that verifies receipt of this income. If the child is not receiving SoonerStart or special education services, the parent or caretaker submits a statement from a health professional describing the care needs of the child.

(2) The parent or guardian, the child care provider, ~~Division of~~ Oklahoma Child Care Services (~~DCC~~OCCS) licensing staff, and the child's Family Support Services (FSS) or Child Welfare (CW) worker completes appropriate sections of Form ~~ADM-123~~ 08AD006E, ~~Certification for~~ Special Needs Child Care Rate Certification. Determination of whether certification requirements are met by the:

(A) child are made by the FSS or CW worker; and

(B) provider are made by the ~~DCC~~ OCCS licensing specialist.

(3) The worker uses Form ~~ADM-123-A~~ 08AD007E, ~~Scoring Sheet for~~ Special Needs Rate Determination Scoring Sheet, to score the ~~ADM-123~~ 08AD006E. The child's care needs must be within the scoring range shown on Form ~~ADM-123-A~~ 08AD007E for moderate or high need to qualify for a special needs rate.

(4) ~~DCC~~ OCCS licensing staff completes Section IV of Form ~~ADM-123~~ 08AD006E indicating whether the provider meets certification requirements described at OAC 340:110-1-9.1.

(5) When the child and the provider meet certification requirements for the special needs rate, the rate is effective the first of the month following the month ~~DCC~~ OCCS licensing staff signs Section IV of Form ~~ADM-123~~ 08AD006E. If the child ~~waits to~~ does not start child care until after the special needs rate is approved, the rate is effective the first date care is approved.

(6) Once Form ~~ADM-123~~ 08AD006E has been completed and the worker determines the child is eligible for one of the special need rates, a new Form ~~ADM-123~~ 08AD006E is only completed when:

(A) the needs of the child change;

(B) the child moves to a different child care facility; or

(C) the child stops attending, for more than six months, the facility that was approved for the special needs rate unit type.

(c) **Supplemental Security Income-Disabled Children's Program (SSI-DCP).** A child between the ages of birth to 18 who receives SSI may be eligible for additional services described at OAC 340:70-8-1. ~~This might include approval~~ The child may also be eligible for enrichment child care ~~further~~ described at OAC 340:40-7-8(f).

340:40-7-5. Resources, residence, and citizenship

(a) Resources are not considered in determining eligibility for subsidized child care.

(b) A parent or caretaker's statement that he or she lives in Oklahoma meets the residence requirement for child care.

(c) Only the ~~child(ren)~~ child for whom child care is requested must meet the citizenship and alienage requirements ~~listed in OAC 340:10-15~~. ~~For eligible children age 14 or older, see OAC 340:65-3-1 for additional citizenship requirements.~~

(1) A child eligible to be included in a child care benefit must be either a:

(A) citizen or a national of the United States (U.S.), including the 50 states, District of Columbia, Commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa, and Northern Mariana Islands. The child may be a citizen of the U.S. by being born in the U.S. or by being born in some other country but moving to the U.S. and being granted U.S. citizenship through the U.S. Citizenship and Immigration Services (USCIS), a bureau of the Department of Homeland Security; or

(B) qualified alien:

(i) who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA);

(ii) who is paroled into the U.S. under Section 212(d)(5) of INA [8 United States Code (U.S.C.) 1182] for a period of at least one year;

(iii) who is granted conditional entry pursuant to Section 203(a)(7) of INA [8 U.S.C. 1153] as in effect prior to April 1, 1980;

(iv) who is granted asylum under Section 208 of INA;

(v) who is admitted to the U.S. as a refugee under Section 207 of INA [8 U.S.C. 1157];

(vi) whose deportation is withheld under Section 241(b)(3) of INA;

(vii) who is a Cuban or Haitian entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;

(viii) who was battered or whose parent or caretaker was battered as defined in Section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act as amended [8 U.S.C.1641(c)]; or

(ix) who was a victim or whose parent or caretaker was a victim of a severe form of trafficking pursuant to Section 107(b) of the Trafficking Victims Protection Act of 2000 which was reauthorized and amended by the Trafficking Victim's Protection Reauthorization Act of 2003.

(2) A declaration of citizenship and alien status is required for all children included in the child care benefit. This requirement is met when an adult member of the household completes and signs the application or review form attesting to the citizenship and alien status for all children included in the benefit. Refer to OAC 340:65-3-1(g) for additional citizenship requirements for persons 14 years of age and older pursuant to Section 71 of Title 56 and Section 20j of Title 74 of the Oklahoma Statutes.

(3) A child who is an alien determined to have satisfactory alien status must have the status verified through Systematic Alien Verification for Entitlements (SAVE). In situations which require a written inquiry to the USCIS, the worker must not delay, deny, terminate, or reduce benefits to an alien pending USCIS verification of submitted documentation.

340:40-7-6. Household composition and income consideration

(a) **Definition of household composition terms.** The worker determines household composition for income considerations using the definition of terms listed in (1) through (9) of this subsection.

(1) An adult is an emancipated minor or person 18 years of age or older. A child who is also a parent is considered an adult.

(2) A spouse is a person married by ceremony or common-law to another person. They can be living together or separately. If they are living separately, they are considered part of the household if the separation is temporary with no intention of severing the marital relationship or the separation is involuntary.

(3) A stepparent is a person who is a spouse or has been a spouse to the child's parent.

(4) A caretaker is an adult that the child is living with who is acting in the role of a parent. This person may or may not be related to the child by blood, adoption, or marriage and may or may not be legally and financially responsible for the child. The caretaker must pursue child support from the natural or adoptive parent in accordance with OAC 340:40-7-9.

(5) A non-relative adult is defined as any person over 18 years of age or an emancipated minor who is not related to the parent or caretaker by blood, adoption, or marriage.

(6) The term legally and financially responsible adult is defined as a parent or stepparent of the child for whom child care is needed. The term also includes other caretaker adults who are court-ordered to be legally and financially responsible for the child.

(7) A child is any unmarried, unemancipated, non-parental person under 18 years of age.

(8) A child who has married or voluntarily left the parental home for any reason and established independent living arrangements, other than being away from home for school or health reasons, is considered emancipated and treated as an adult. Once a child is emancipated, the emancipation is permanent.

(9) A sibling is a minor child who has at least one parent in common with another child in the same household. This definition of a sibling also includes a step-brother or step-sister.

(b) **Household composition and income consideration.** To establish a child's eligibility for subsidized child care benefits, it is necessary to define who must be considered part of household composition for income consideration. ~~Individuals~~ Persons whose income must be considered in determining eligibility are:

(1) the natural, adoptive, or stepparent of the child who lives in the home and for whom child care is needed;

(2) the caretaker(s) of the minor child who needs child care if that caretaker is legally and financially responsible for the child;

(3) the child for whom child care is requested and his or her siblings under 18 who live in the home;

(4) any non-relative adult of the opposite sex who is living in the home with the natural or adoptive parent; and

(5) any child of the non-relative adult of the opposite sex who is living in the home with the natural or adoptive parent.

(c) **Periods of absence.**

(1) When a household member is out of the home due to a temporary absence, he or she is still considered a household member as long as he or she plans to return to the home. ~~If a child lives with each parent for part of the month, see (d) in this Section. If a child lives with a parent for part of the month and a caretaker for the rest of the month, the child's eligibility is based on whether the parent meets eligibility factors in accordance with OAC 340:40-7. The caretaker must also meet a need factor in accordance with OAC 340:40-7-7 during the time he or she has physical custody of the child.~~ Examples of temporary absence include:

(~~1~~A) a hospitalization for physical or mental health reasons;

(~~2~~B) incarceration;

(~~3~~C) attending school;

(~~4~~D) military service;

~~(5) vacation time for a child; and~~

(~~6~~E) working or ~~looking for a job~~ training away from home~~.~~;

(F) looking for a job away from home. See OAC 340:40-7-8(a)(6); and

(G) vacation time for a child.

(2) If a child lives with each parent for part of the month, see (d) in this Section.

(3) If a child lives with a parent for part of the month and a caretaker for the rest of the month, the child's eligibility is based on whether the parent meets the eligibility factors in accordance with OAC 340:40-7. The caretaker must also meet a need factor in accordance with OAC 340:40-7-7 during the time he or she has physical custody of the child.

(d) **Joint or shared custody.** When parents separate or divorce and share custody of their child, either voluntarily or through a court order, the worker considers each parent's eligibility separately as well as his or her income. If only one parent qualifies for subsidized child care benefits, only the days and hours of care needed while that parent has physical custody of the child is approved. If both parents qualify for subsidized child care benefits, each parent is approved only for the days and hours that parent has physical custody and meets a need factor.

340:40-7-8. Defining the need factor for child care benefits

(a) **Employment.** Employment means the parent or the caretaker earns wages for work performed.

(1) The client must provide proof of his or her work hours. If the client has the flexibility to set his or her own work hours, the client and worker jointly determine if they can reduce the number of hours the child needs care by rearranging the client's work schedule. This is especially important in two-parent or two-caretaker families.

(2) The worker limits approval of child care to the number of days and hours the client is working plus reasonable travel time. In two-parent or two-caretaker working families, the worker limits approval to the days and hours they are both working at the same time plus reasonable travel time. If the child attends school or Head Start during part of the work hours, the worker reduces the number of hours he or she approves child care accordingly.

(3) If the parent or caretaker is not making at least minimum wage for the number of hours he or she is working, the worker may limit the number of days and hours of care initially approved. The worker counsels with the ~~individual~~ person regarding increasing his or her income. If counseling is unsuccessful, the worker decides whether to further reduce or terminate the subsidized child care benefits.

(4) A person employed and working from his or her own home may be approved for subsidized child care benefits in an out-of-home child care home or center.

(5) Subsidized child care benefits can be approved for sleep time during the day when a parent or caretaker works night hours and a feasible alternative is used at no cost to the Oklahoma Department of Human Services (OKDHS) during the night working hours. Night working hours is defined as the hours between 11:00 p.m. and 7:00 a.m.

(A) The maximum amount of time the worker approves child care is to allow the client eight hours of sleep plus travel time to and from the child care provider.

(B) In two-parent or two-caretaker families care can only be approved for this reason when both parents have night time jobs or when one parent has a night time job and the other parent or caretaker works during the day while the other parent is sleeping.

(6) Job search meets the definition of employment and child care may be approved only when a recipient who has received subsidized child care benefits for at least 30 calendar days loses employment or successfully completes a formal education or training program and requests child care to look for a job.

(A) Child care may be approved for a maximum of 30 calendar days from the date the client loses employment or successfully completes a formal education or training program as long as the child continues to attend the same child care facility.

(B) Job search may be approved no more than twice per calendar year.

(C) The client must have been employed or going to school for at least 90 calendar days between approval periods.

(b) **Training.** A training program is defined as a course of study that when completed qualifies a person to meet requirements for a job that the client could not have obtained without the certificate of completion, accreditation, or licensure. Child care can be approved for one parent or caretaker to attend a training program. ~~However, in~~ In two-parent or two-caretaker families, the other parent or caretaker must be employed during the same hours.

(1) The training program must qualify to receive federal financial aid from the United States Department of Education (USDE) or other federal or state education funds.

(2) Prior to approval for child care, the client must provide proof of enrollment, the days and hours the client will be attending, and when he or she is expected to complete the program.

(3) The program must require classroom attendance on a school campus with an instructor present. Care is only approved for an on-line Internet based course or televised course if it is a live broadcast conducted by an instructor and attendance is required while the program is being broadcast. If the program is self-paced and can be completed whenever the client chooses, care is not approved.

(4) The client must provide proof of progress when requested. If the client is not making satisfactory progress, further child care for this reason is not approved.

(5) Once the client completes a training program, further child care is not approved for training or education. The client is expected to look for jobs that require his or her training credentials. The client may be eligible for subsidized child care benefits to job search if he or she meets requirements at (a)(6) of this Section.

(6) In certain circumstances, the worker may approve child care benefits for a client to attend a second training program. The client must first have been employed in a job that required the training credentials he or she already has for at least 12 months. Possible circumstances include when:

(A) the client can no longer perform the job he or she is trained to do because of physical or mental health reasons. In this instance, the client must provide a statement from a doctor, mental health professional, or a vocational rehabilitation professional that verifies the reason. The professional must also state that the client is capable of performing the job tasks of the training program in which the client wants to enroll;

(B) there is no longer a demand for the type of work the person is trained to do. The client must provide a statement from a professional working with the client to obtain employment stating there is no demand. The professional must be employed by the Workforce Oklahoma Center, a Workforce Investment Act (WIA) contracted entity, the Oklahoma Employment Security Commission (OESC), or the Oklahoma Department of Rehabilitation Services (DRS); or

(C) the client can establish receipt of the additional training can increase the ~~individual's~~ person's earning potential. The client must provide proof that the starting salary for a person with the training credentials the client wants to obtain is higher than he or she is currently earning.

(c) **Education program.** An education program can include:

(1) **High school.** Child care can be approved for one or both parents or caretakers to attend high school. It is not approved for a parent or caretaker to receive homebound instruction. Prior to approval the client must provide proof that he or she is enrolled, the days and hours the client is attending, and when he or she is expected to graduate.

(2) **General Educational Development (GED), literacy, or adult basic education (ABE) classes.** The program must require classroom attendance with an instructor present. Child care can be approved for one parent or caretaker to attend GED, literacy, or ABE classes. However, in two-parent or two-caretaker families, the other parent or caretaker must be employed during the same hours.

(A) The client must provide proof of enrollment, the days and hours the client is attending, and the length of the class prior to care being approved. If the class has open enrollment and no established end date, the client must provide proof of how often progress is measured.

(B) Within the first month of classes, the client must provide proof of initial testing showing the client's current educational and/or literacy level.

(C) The worker reviews the client's progress when the class is expected to end prior to approval for further care for this reason. If the class is open-ended, the worker reviews progress no later than 12 months from the date care was approved for this reason. At review, the client must provide a statement from the school that includes:

(i) whether the client is attending regularly;

(ii) whether the client is making satisfactory progress;

(iii) an estimated length of time it will take to complete the program; and

(iv) what days and hours the client is currently attending classes.

(D) If the client has not been attending regularly or making satisfactory progress, further care for this reason is not approved.

(3) **English as a Second Language (ESL) classes.** The program must require classroom attendance with an instructor present. Child care can be approved for a single parent or caretaker to attend ESL classes when the client lacks proficiency in understanding, speaking, reading, or writing the English language. ~~However, in~~ In two-parent or two-caretaker families, the other parent or caretaker must be employed during the same hours.

(A) The client must provide proof of enrollment, the days and hours the client is attending, and the length of the class prior to care being approved. If the class has open enrollment and no established end date, the client must provide proof of how often progress is measured.

(B) The worker reviews the client's progress when the class is expected to end prior to approval for further care for this reason. If the class is open-ended, the worker reviews progress no later than 12 months from the date care was approved for this reason. The client must provide a statement from the school that includes:

(i) whether the client is attending regularly;

(ii) whether the client is making satisfactory progress;

(iii) an estimated length of time it will take to complete the program; and

(iv) what days and hours the client is currently attending.

(C) If the client has not been attending regularly or making satisfactory progress, further care for this reason is not approved.

(4) **Formal education program.** A formal education program is defined as a course of study that leads to the attainment of an associate's or bachelor's degree. Child care can be approved for one parent or caretaker to attend a formal education program. ~~However, in~~ In two-parent or two-caretaker families, the other parent or caretaker must be employed during the same hours.

(A) The formal education program must qualify to receive federal financial aid from USDE or other federal or state education funds.

(B) Prior to approval for child care, the client must provide proof of enrollment, the days and hours the client is attending, and when he or she is expected to complete the degree.

(C) The degree program must require classroom attendance on the school campus with an instructor present. Care is only approved for an on-line Internet based course or a televised course if it is a live broadcast conducted by an instructor and attendance is required while the program is being broadcast. If the program is self-paced and can be completed whenever the client chooses, care is not approved.

(D) The client must provide proof of progress when requested. If the client is not making satisfactory progress, further care for this reason is not approved.

(E) Once the client completes a bachelor's degree, further care is not approved for training or education. The client is expected to look for jobs that require a degree. The client may be eligible for subsidized child care benefits to job search if he or she meets requirements at (a)(6) of this Section.

(F) In certain circumstances, the worker may approve subsidized child care benefits for a client to obtain a different bachelor's degree. The client must first have been employed in a job that required the degree he or she already has for at least 12 months. Possible circumstances include when:

(i) the client can no longer perform the job he or she is trained to do because of physical or mental health reasons. In this instance, the client must provide a statement from a doctor, mental health professional, or a vocational rehabilitation professional that verifies the reason. The professional must also state that the client is capable of performing the job tasks of the degree program in which the client wants to enroll;

(ii) there is no longer a demand for the type of work the person is trained to do. The client must provide a statement from a professional working with the client to obtain employment stating there is no demand. The professional must be employed by the Workforce Oklahoma Center, a WIA contracted entity, OESC, or DRS; or

(iii) the client can establish receipt of the second degree can increase the ~~individual's~~ person's earning potential. The client must provide proof that the starting salary for a person with the degree the client wants to obtain is higher than he or she is currently earning.

(d) **Temporary Assistance for Needy Families (TANF) Work activity.** When a client receives a TANF benefit, subsidized child care benefits may be provided for any activity outlined on the client's Form 08TW002E, TANF Work/Personal Responsibility Agreement, in accordance with OAC 340:10-2-1.

(1) Need for child care is also met when the ~~individual~~ person is waiting to enter an approved TANF Work activity. Approval is limited to a time period not to exceed:

(A) two weeks; or

(B) one month on an exception basis where child care arrangements or other services would otherwise be lost and the subsequent activity is scheduled to begin within that period.

(2) TANF applicants referred for immediate employment may be approved for subsidized child care benefits to job search. TANF applicants are advised:

(A) child care to job search is limited to 20 days which must be used within 30 calendar days from the date of request;

(B) in-home child care arrangements are not available for TANF applicants;

(C) child care may only be used during the times the applicant is actually looking for a job; and

(D) he or she must notify the worker immediately upon securing employment.

(e) **Protective or preventive child care.** Subsidized protective or preventive child care benefits can be used as an early intervention strategy in certain critical situations to help in preventing neglect, abuse, or exploitation of a child. The worker may approve child care in these situations to help stabilize the family situation or to enhance family functioning. In most instances, Child Welfare (CW) staff complete protective or preventive child care requests when they are working with the family and recommending protective or preventive child care. When CW staff contract with an outside agency to provide protective or preventive services and child care is recommended, Family Support Services (FSS) staff complete these child care requests with the help of the contracted agency staff.

(1) Subsidized protective or preventive child care benefits are temporary and planning to reduce or eliminate the need for such child care begins at the initial contact.

(2) The worker must complete a face-to-face interview with the client prior to approving subsidized protective or preventive child care benefits in order to better assess all of the service needs of the family.

(3) The client must provide a statement from a professional working with the family stating:

(A) the reason child care is recommended;

(B) how placing the child in a child care facility helps to prevent neglect, abuse, or exploitation of the child; and

(C) the length of time this care is expected to be needed.

(4) The family may or may not be expected to help in paying the cost of these subsidized child care benefits depending on the unique circumstances of the family.

(5) In certain circumstances, families who are financially ineligible for subsidized child care benefits may be approved for protective or preventive child care benefits when the child is in danger of neglect, abuse, or exploitation. The client must provide evidence the family is so burdened by debt that the additional financial pressure of paying for child care may result in further deterioration of family stability and functioning. The client must also provide a plan for reducing his or her debt.

(6) The worker may approve subsidized protective or preventive child care benefits for a maximum of 30 calendar days. If determining ongoing eligibility will take time, the worker may approve child care while the parent or caretaker is gathering necessary information during this 30 calendar day period.

(7) If the family requests subsidized protective or preventive child care benefits beyond this initial 30 calendar day period, the worker sends a memo and supporting documentation to the Family Support Services Division (FSSD) Child Care Subsidy Section to request an extension. The client must provide all needed eligibility information prior to submission of the extension request.

(f) **Enrichment.** The purpose of subsidized enrichment child care benefits is to assist a child receiving Supplemental Security Income (SSI) to develop socialization skills and to transition into a group setting such as a classroom. If a child is not receiving SSI benefits, the child is not eligible for subsidized enrichment child care benefits.

(1) The need for subsidized enrichment child care benefits is based solely on the needs of the child's condition of delay or disability rather than on the activities of the parent or caretaker.

(2) Child care for enrichment is limited to a maximum of two days per week not to exceed ten full-time or part-time days per month.

(3) The parent or caretaker must provide a written recommendation from a professional who is working directly with the child in some capacity that states how child care would be beneficial to the child. The professional could be the child's doctor, occupational therapist, physical therapist, or special education teacher.

(4) Unless special circumstances exist, subsidized enrichment child care is only approved for children who have not yet started school or Head Start.

(5) When subsidized enrichment child care benefits are approved, care must be provided outside of the child's home and at least one other child must be attending during the same hours.

(6) The worker obtains approval from staff in the FSSD ~~Health Related and Medical Services~~ Child Care Subsidy Section prior to authorizing care for this need factor ~~in accordance with OAC 340:70-8-1~~.

340:40-7-9. Mandatory pursuit of child support and other potential income

(a) **Mandatory referral to the Oklahoma Child Support ~~Enforcement Division (CSED)~~ Services (OCSS).** When one or both of the child's parents are absent from the home, the client must agree to pursue child support through ~~CSED~~ OCSS for all children who must be included in the same household in accordance with OAC 340:40-7-6 before subsidized child care benefits are approved.

(1) **When a ~~CSED~~ OCSS referral is required.** The client is required to pursue child support for all children living in the home for which one or both parents are absent unless good cause exists as described at paragraph (2) or (6) of this subsection. This includes when:

(A) the parent or caretaker is not requesting subsidized child care benefits for every child living in the home;

(B) the client is already receiving court-ordered child support;

(C) there is a joint custody agreement and neither parent is ordered to pay support;

(D) parental rights have been terminated except in the case of adoption per Section 7006-1.3 of Title 10 of the Oklahoma Statutes;

(E) an additional child whose parent is absent is added to the household after certification; or

(F) one or both parents leave the home after certification.

(2) **When a ~~CSED~~ OCSS referral is not required.** The client is not required to complete child support forms when:

(A) he or she is a foster parent to the child and the ~~CSED~~ OCSS referral was completed in the child's SoonerCare (Medicaid) case;

(B) the client is an adoptive parent and provides proof of a single parent adoption;

(C) a parent is temporarily out of the home in accordance with OAC 340:40-7-6(c) and is still considered part of the household;

(D) the child whose parent is absent is not required to be considered part of the household in accordance with OAC 340:40-7-6; or

(E) the client is a minor parent and is not living with his or her own parents. The minor parent must pursue child support for his or her own child but not for himself or herself.

(~~2~~3) **Required forms.** The worker makes the referral to ~~CSED~~ OCSS by completing with the client Form 08TA001E, Absent Parent (AP) Information Sheet, for each absent parent. The client must sign Form 08TA012E, Cooperation Agreement and Request for Good Cause, as described at paragraph (6) of this subsection. The worker gives Appendix ~~03AX016E~~ C-16, Child Support Services and Responsibilities, to the client. The form explains ~~CSED~~ OCSS services and client expectations. Supplemental information sent to the appropriate ~~CSED~~ OCSS district office by the worker includes:

(A) a signed and completed Form 03EN002E, Affidavit of Child Support Payments Received;

~~(B) a signed and completed Form 03PA001E, Mother's Affidavit of Paternity. This form is only completed if the mother is applying for subsidized child care benefits and paternity has not been established;~~ and

(~~C~~B) copies of any legal documents concerning custody or child support.

(~~3~~4) **Centralized Support Registry (CSR).** After the worker approves the client for subsidized child care benefits, all future child support payments must be made to the CSR. Appendix ~~03AX016E~~ C-16 contains the address for the CSR.

(~~4~~5) **Establishment of paternity.** If paternity has not yet been established, the worker discusses the voluntary acknowledgment of paternity process with the alleged father when he is located. If the alleged father admits paternity, the worker secures the alleged father's and the mother's signature on Form 03PA209E, Acknowledgment of Paternity, per instructions under the Notice of Rights and Responsibilities on the form.

(~~5~~6) **Good cause.** Although the client's cooperation in the pursuit of child support through ~~CSED~~ OCSS is required as a condition of eligibility for child care, good cause for refusal to cooperate may be granted when such cooperation is not in the best interest of the child. The Oklahoma Department of Human Services (OKDHS) may determine that child support activities can be safely conducted without the cooperation of the client.

(A) The client must sign Form 03TA012E, Cooperation Agreement and Request for Good Cause, at the time of the initial application, at the time of an additional child request, or when circumstances result in an applicant or recipient's request for good cause. The worker does not deny, delay, or discontinue subsidized child care benefits pending a determination of good cause for refusal to cooperate if the applicant or recipient has complied with the requirements to furnish evidence or information.

(B) OKDHS determines that the client has good cause for refusing to cooperate only if:

(i) there is possible physical or emotional harm to the child;

(ii) there is possible physical or emotional harm to the parent or caretaker;

(iii) the child was conceived as a result of incest or forcible rape;

(iv) legal proceedings for adoption of the child are pending before a court; or

(v) the client is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption.

(C) It is the responsibility of the applicant or recipient who makes a claim for good cause to supply documentary evidence to establish the claim, or to furnish sufficient information to permit OKDHS to investigate the circumstances of good cause for refusing to cooperate. Uncorroborated statements of the applicant or recipient are not acceptable documentation. The evidence must be of probative value and supported by written statements to the extent possible. Examples of acceptable written statements include:

(i) birth certificate or medical or law enforcement records which indicate that the child was conceived as a result of incest or forcible rape;

(ii) court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;

(iii) criminal, medical, child protective services, social services, psychological, or law enforcement records indicating that the putative or absent parent might inflict physical or emotional harm on the child or caretaker;

(iv) medical records indicating the emotional health history and present emotional health status of the caretaker or child, or a written statement

from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the caretaker or child;

(v) a written statement from a public or licensed private social agency that the applicant or recipient is being assisted by OKDHS to resolve the issue of whether to keep the child or relinquish the child for adoption; and

(vi) sworn statements from ~~individuals~~ persons other than the client with knowledge of the circumstances which provide the basis for the good cause claim.

(D) Upon request, the worker assists the client in obtaining evidence that is not reasonably obtainable. This requirement is limited to the specific documentary evidence in (C)(i) through (vi) of this subsection. The client must specify the type of document or record needed, as well as provide sufficient identifying information to make it possible to be obtained.

(b) **Failure to cooperate in the pursuit of child support.** Failure to cooperate in pursuit of child support without good cause may be indicated at the time of application or at any time further action by the client is necessary.

(1) Actions indicating failure to cooperate include refusals to:

(A) identify and assist in locating a known parent;

(B) establish paternity; or

(C) establish, modify, or enforce a support order.

(2) When the worker is informed by ~~CSED~~ OCSS that the client is not cooperating, the worker closes or denies the subsidized child care benefits for all children included in the child care benefits effective ten calendar days from the date action is taken.

(c) **Cooperation with ~~CSED~~ OCSS following closure of the subsidized child care benefits.** The client must verify that he or she is cooperating with ~~CSED~~ OCSS before subsidized child care benefits can be approved again.

(1) If the client cooperates with ~~CSED~~ OCSS within 30 calendar days of the closure of the subsidized child care benefits and the worker is notified of this cooperation within this time frame, the worker can reopen the benefits back to the date they closed without imposing a penalty period.

(2) If the client does not cooperate with ~~CSED~~ OCSS or waits to inform the worker of this cooperation for more than 30 calendar days from the date the subsidized child care benefits closed, the client must complete a new application before care can be approved. The earliest date subsidized child care benefits can be approved is the date the client completes a child care interview and provides all necessary verification in accordance with OAC 340:40-3-1.

(d) **Exploration and development of potential income other than child support.** The worker explores all other potential sources of income such as Social Security benefits, Supplemental Security Income (SSI), unemployment benefits, veterans benefits, and increased wages at the time of application and at each review for all members of the household whose income must be considered in accordance with OAC 340:40-7-6. The client must apply for or continue to pursue all potential sources of income for which it appears likely he or she may be eligible except for SSI. The client is encouraged but not required to apply for SSI when the client indicates that a household member has a disability. The worker gives the client 90 calendar days from the date potential income is identified to pursue such income.

(1) If the client refuses to pursue available income at the time of request, the worker denies the child care request.

(2) If the client agrees to pursue all potential income and then fails to do so, the worker closes subsidized child care benefits effective ten calendar days from the date the worker takes action.

(3) If the client is approved for the potential income or offered a raise in pay and refuses to accept it, the worker closes the subsidized child care benefits effective ten calendar days from the date the worker takes action.

(4) If the client's pay is decreased either in rate of pay or number of hours worked, the worker explores why the decrease occurred. If the client requested the decrease to avoid a family share co-payment increase or to maintain eligibility for the subsidized child care benefits, the worker closes the subsidized child care benefits.

(5) At each review, the worker determines whether the client continues to pursue potential income.

(A) If the client begins receiving previously identified potential income, the worker considers the income for the next negative action deadline after it is reported.

(B) If the client was determined not eligible for the income, the client must verify this. The worker records in the case record the verification provided and stops exploring this potential income with the client.

(C) If the client stops pursuing the income and was not determined ineligible for it, the worker closes the client's child care benefit for failure to cooperate effective ten calendar days from the date the worker takes action.

(6) If the client's subsidized child care benefits were closed because of failure to cooperate, the client must verify receipt or pursuit of such income or that such income is no longer potentially available before child care can be approved.

(A) If the client verifies cooperation within 30 calendar days of the closure of subsidized child care benefits, the worker can reopen the benefits back to the date they were closed without imposing a penalty.

(B) If the client does not cooperate or waits to verify cooperation for more than 30 calendar days from the date the subsidized child care benefits close, the client must complete a new application before care is approved. The earliest date subsidized child care benefits can be approved is the date the client completes a child care interview and provides all necessary verification in accordance with OAC 340:40-3-1.

340:40-7-10. General provisions regarding income

(a) All available income, except that required to be disregarded by law or Oklahoma Department of Human Services (OKDHS) policy, is taken into consideration in determining a client's eligibility for child care services.

(b) The client must report all sources of income at the time of application.

(c) Income from a new source is considered available after it has actually been received. Anticipated income from a new source is never considered until it is actually in hand and under the control of the ~~individual~~ person.

(d) Past income is not used to anticipate future income for any month in which a change in income has occurred or employment has been terminated.

(e) The client must report any changes in the amount or source of income within ten days of the date the change occurs. Income changes reported timely are considered available for the next effective date shown on OKDHS Appendix ~~08AX002E~~ B-2, Deadlines for Case Actions.

(f) When ~~an individual's~~ a person's income is reduced due to garnishment, the gross amount before the garnishment is counted as income.

(g) Payments not considered as income are:

(1) monies withheld from any income source to repay a prior overpayment received from that same source;

(2) monies voluntarily or involuntarily returned to repay a prior overpayment received from that same income source; or

(3) child support payments received by Temporary Assistance for Needy Families (TANF) recipients which must be sent to the Oklahoma Child Support ~~Enforcement Division~~ Services to maintain TANF eligibility.

(h) Monies withheld or returned to repay overpayments in federal, state, or local means tested assistance programs are not excluded when they are withheld or returned to repay overpayments resulting from intentional program violation as established by the agency administering the program.

340:40-7-12. Sources of excluded income

Only the income listed in this Section is excluded in determining a household's eligibility for a child care benefit. No other income is excluded.

(1) **Lump sum payments.** Both one-time and recurring lump sum payments are excluded as income unless they are specifically mentioned in OAC 340:40-7-11.

(2) **In-kind income.** In-kind income is defined as any gain or benefit which is not in the form of money payable directly to the household, including non-monetary or in-kind benefits such as meals, clothing, public housing, or produce from a garden, and is excluded.

(3) **Money received from the sale of property.** Money received from the sale of property such as stocks, bonds, a house, or a car is excluded. This exclusion does not apply if the person is engaged in the business of selling such property.

(4) **Bank or trust account withdrawals.** Money withdrawn from a bank or trust account is excluded as income even if used to meet current living expenses.

(5) **Capital gains.** The proceeds from the sale of capital goods or equipment is excluded.

(6) **Earnings of children.** Earnings of ~~an individual~~ a person 17 years of age and younger who is considered a child in the case is excluded as long as the child is attending school regularly. This exclusion continues to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment resumes following the break. Earned income of a child who is head of his or her own household, such as is the case for a minor parent, is treated as adult income.

(7) **Irregular income.** Any income received too infrequently or irregularly to be reasonably anticipated is not counted unless it is in excess of $30 per calendar quarter.

(8) **Reimbursements.** Reimbursements for past or future expenses to the extent they do not exceed actual expenses are excluded.

(9) **Tax refunds.** Federal or state income tax refunds, including the state and federal Earned Income Tax Credit (EITC), and advance payments of federal EITC are excluded.

(10) **Money received for third parties.** Money received and used for the care and maintenance of a third party who is not a household member is excluded.

(11) **Loans.** All loans, including loans from private as well as commercial institutions, are excluded. Verification that the income is a loan is required.

(12) **Grants.** Grants obtained and used under conditions that preclude their use for current living costs is excluded.

(13) **Educational assistance.** All education grants, work-study, scholarships, and student loans are exempt if receipt is contingent upon the student regularly attending school.

(14) **Stipends.** Stipends paid to students participating in the Indian Vocational Education Program through the Carl D. Perkins Vocational and Applied Technology Education Act is excluded.

(15) **Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE).** Payment for supportive services or reimbursement of out-of-pocket expenses made to volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in SCORE and ACE is excluded.

(16) **Government rent or housing subsidies.** Government rent or housing subsidies by government agencies which is received in-kind or in cash for rent, mortgage payments, or utilities is excluded.

(17) **Foster care payments.** Foster care payments received for a foster child in state or tribal custody are excluded as income.

(18) **Victims of Crime Act of 1984.** Payments made from the crime victims compensation program as amended in Section 1402 of the Victims of Crime Act of 1984 are excluded. [42 USC 10602]

(19) **Family Support Assistance Payment Program.** Family Support Assistance Payment Program payments

paid to ~~individuals~~ persons by the Developmental Disabilities Services Division of the Oklahoma Department of Human Services (OKDHS) are excluded as income.

(20) **Vendor payments.** Vendor payments are payments in money on behalf of a household when a person or organization outside the household uses its own funds to make a direct payment to either a household's creditors or a person or organization providing a service to the household are excluded. Payments specified by a court order or other legally binding agreement to be paid directly to the client but that are instead diverted to pay a third party for a household expense are counted as income.

(21) **Money received by another household for a household member.**

(A) When a child spends part of the month in two separate households and receives countable income, the worker determines which household actually receives the income. Only the portion of the income that is actually received by the household applying for or receiving a child care benefit is considered as income for that household.

(B) When a minor parent is the payee and lives with one of his or her parents or a caretaker who receives child support for the minor parent, that child support is considered income for the parent or caretaker and not considered for the child care benefit.

(22) **Income excluded by federal law.** Income excluded by federal law is defined as:

(A) payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(B) payments received:

(i) under the Alaska Native Claims Settlement Act [Public Law (P. L.) 92-203, § 21(a)];

(ii) under the Sac and Fox Indian Claims Agreement [P.L. 94-189];

(iii) from the disposition of funds to the Grand River Band of Ottawa Indians [P.L. 94-540];

(iv) by members of the Confederated Tribes of the Mescalero Reservation [P.L. 95-433]; or

(v) under the Maine Indian Claims Settlement Act of 1980 to members of the Passamaquoddy and the Penobscot Nation [P.L. 96-420];

(C) any payment to volunteers under Title II, Retired and Senior Volunteer Program, Foster Grandparents and others, of the Domestic Volunteer Services Act of 1973 [P.L. 93-113] as amended. Payments under Title I of that Act, Volunteers in Service To America, University Year for Action, and Urban Crime Prevention Program, to volunteers are excluded only if the monthly amount, when converted to an hourly rate, is less than the Oklahoma minimum wage;

(D) income derived from submarginal land of the United States which is held in trust for certain Indian tribes [P.L. 94-114, Sec. 6];

(E) Indian payments, which include judgment funds or funds held in trust, distributed per capita by the Secretary of the Interior of the Bureau of Indian Affairs or distributed by the tribe subject to approval by the Secretary of the Interior. ~~Also, any~~ Any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds. Any income from mineral leases, from tribal businesses investments, and the like, as long as the payments are paid per capita. For purposes of this paragraph, per capita is defined as each tribal member receiving an equal amount. However, any interest or income derived from the principal or produced by purchases made with the funds after distribution is considered as any other income;

(F) income up to $2,000 per year received by individual Indians, which is derived from leases or other uses of individually-owned trust or restricted lands is not counted as income. The income exclusion applies to calendar years beginning January 1, 1994. Any remaining disbursements from the trust or restricted lands are considered as income;

(G) allowances, earnings, and payments received by a child(ren) in the household from a program funded by participation in the Workforce Investment Act (WIA), including Job Corps income are not counted as income;

(H) payments, allowances, or earnings to ~~individuals~~ persons participating in programs under Title I of the National and Community Service Trust Act of 1993. Title I includes three Acts: Serve-America, The Community Service, Schools and Service-Learning Act of 1990, the American Conservation and Youth Service Corps Act of 1990, and the National and Community Service Act. Most of the payments are made as a weekly stipend or for educational assistance. The Higher Education Service-Learning Program and the AmeriCorps Umbrella Program come under this Title. This includes AmeriCorps income;

(I) payments or allowances made under any federal law for the purpose of energy assistance, Low Income Home Energy Assistance Program (LIHEAP), and also utility payments and reimbursements made by the Department of Housing and Urban Development (HUD) and the Farmers Home Administration (FmHA);

(J) the amount of the mandatory salary reduction of military service personnel used to fund the G.I. Bill;

(K) all funds paid to ~~individuals~~ persons under the Community Service Employment Program under Title V. [P.L. 100-175] This program is authorized by the Older Americans Act. Each State and various organizations receive some Title V funds. These organizations include:

(i) Green Thumb;

(ii) National Council on Aging;

(iii) National Council of Senior Citizens;

(iv) American Association of Retired Persons;
(v) U.S. Forest Service;
(vi) National Association for Spanish Speaking;
(vii) National Urban League;
(viii) National Council on Black Aging; and
(ix) National Council on Indian Aging;

(L) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement In Re Agent Orange Product Liability Litigation, M.D.L. No. 381 (E.D.N.Y.);

(M) payments received under the Civil Liberties Act of 1988. These payments are made to ~~individuals~~ persons of Japanese ancestry who were detained in interment camps during World War II;

(N) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from exposure to radiation from nuclear testing and uranium mining;

(O) payments for the fulfillment of a Plan for Achieving Self-Support under Title XVI of the Social Security Act;

(P) payments made to ~~individuals~~ persons because of their status as victims of Nazi persecution;

(Q) payments made for the Experimental Housing Allowance Program under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937 as amended;

(R) monetary allowances provided to certain children of Vietnam War veterans as described in Chapter 18 of Title 38 of the United States Code (USC);

(S) federal major disaster and emergency assistance provided under the Disaster Relief Act of 1974, and comparable disaster assistance provided by states, local governments, and disaster assistance organizations. For payments to be excluded, the disaster or emergency must be declared by the President of the United States;

(T) the value of the food ~~stamp~~ benefit allotment under the Food ~~Stamp~~ and Nutrition Act of ~~1977~~ 2008; and

(U) the value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food services program for children under the National School Lunch Act of 1970, both as amended by the Omnibus Budget Reconciliation Act of 1981.

340:40-7-13. Computation of income

(a) Any income from an ongoing source that is received regularly but in amounts that vary, or income received irregularly, is averaged over a minimum of 30 days unless the client has received fewer than 30 days of representative income. This includes overtime pay, irregular child support, and other occasional increases or decreases in the monthly gross income. When income is received more often than once per month, the income is converted to a monthly amount.

(b) Income of the applicant or recipient is verified by the best available information. With new employment, the worker verifies the beginning date, date the first full paycheck is expected to be received, hourly rate, and anticipated number of hours per week.

(c) All earned and unearned income is added together to arrive at the gross income for the household.

(d) Once gross income is computed, the only allowable deduction from gross income is for the amount of any verified legally-binding child support payments paid by a household member to or for a non-household member, including child support and child care support payments made to a third party on behalf of the non-household member.

(e) The worker uses Oklahoma Department of Human Services (OKDHS) Appendix ~~08AX005E~~ C-4, Child Care Eligibility/Co-payment Chart to determine whether the household meets income guidelines. See OAC 340:40-5-1(8).

SUBCHAPTER 9. PROCEDURES RELATING TO CASE CHANGES

340:40-9-2. Case changes

(a) **Case changes.** The client must report within ten calendar days any changes in his or her circumstances that would result in an increase or decrease in subsidized child care benefits. The worker acts on changes that increase or decrease the subsidized child care benefits regardless of whether the client is a semi-annual reporter ~~or not~~. Failure to report changes timely may result in an overpayment assessment against the client. Examples of changes the client must report include:

(1) household income;
(2) household composition;
(3) names and number of household members in child care;
(4) the reason child care is needed;
(5) parent's or caretaker's work or school schedule or any other change affecting the days and hours child care is needed;
(6) the client's address or telephone number;
(7) the child care facility the child is attending;
(8) child care is no longer being used or needed; and
(9) family size.

(b) **Change of payee.** When a change of payee is reported, the worker refers to policy at OAC 340:40-7-6(c) regarding temporary absence. If the situation is not temporary, a new application must be taken. See OAC 340:40-3-1 for application processes.

(~~b~~c) **Additional child request.** When an additional child requires subsidized child care benefits, the worker completes the request within two working days of the client providing all necessary verification to determine eligibility. If eligible, the child can be approved for subsidized child care benefits beginning with the date of request. Family share co-payment increases due to adding an additional child to the subsidized child care benefits are effective the month after the month the client requests subsidized child care benefits for that child.

(~~c~~d) **Changes that increase the subsidized child care benefits.** When the client reports a change timely that increases the subsidized child care benefits, the client and the worker jointly plan the effective date of the change. When the client does not report changes timely, the earliest date the worker increases the subsidized child care benefits is the first day of the month in which the client reports the change.

(~~d~~e) **Changes that decrease the subsidized child care benefits.** When possible, the worker plans with the client changes that decrease the subsidized child care benefits before implementing the change. When the client reports an increase in income, the worker uses Oklahoma Department of Human Services (OKDHS) Appendix ~~08AX005E~~ C-4, Child Care Eligibility/Co-payment Chart, to determine whether the household meets income guidelines in accordance with OAC 340:40-5-1(8).

(~~e~~f) **Change in provider.** When a client reports a change in provider, the change is effective the date the change in provider occurs, regardless of whether ~~or not~~ the client reports this change timely. The worker completes provider changes within two working days of the date the client reports the change.

(~~f~~g) **Closure of the subsidized child care benefits.** When advance notice is required, the worker closes the subsidized child care benefits ten days from the date action is taken. Ten day advance notice is not required when the client gives written permission agreeing to an earlier closure date.

(~~g~~h) **Reopen action.** When a client's subsidized child care benefits close, they can be reopened using current eligibility information if policy and procedures were not administered correctly or if human services center staff receive new or additional information within 30 calendar days of the effective date the benefits terminated that shows the family continues to be eligible. The client must complete a new application when:

(1) a 30 calendar day period of job search was given because the client lost his or her job or successfully completed school and the subsidized child care benefits were closed;

(2) expedited eligibility processing is used and requested verification is not returned within 30 calendar days of the application date. See OAC 340:40-3-1(b); or

(3) the payee for the child care case changes.

SUBCHAPTER 10. ELECTRONIC BENEFIT TRANSFER (EBT) SYSTEM FOR CHILD CARE

340:40-10-4. Child care electronic benefit transfer (EBT) payment process

(a) **Child care payments.** The Oklahoma Department of Human Services (OKDHS) makes payments for child care services to providers electronically using the electronic benefit transfer (EBT) system unless the provider is an in-home provider or a provider on a military base. These providers are paid manually via the EBT system after submitting Form 10AD121E, Child Care Claim.

(b) **Point-of-service (POS) machines.** Contracted child care providers are issued a POS machine within ten days of the date the worker authorizes care for a child and the provider notifies the OKDHS contractor that he or she is beginning to care for a child eligible for an OKDHS subsidy.

(c) **Attendance swiping.** Clients record actual times their child attends child care by swiping an EBT card through the POS machine. Providers can charge clients for care provided on days they fail to bring their EBT card or when the machine message shows care is denied. If care is later approved for that date(s), the provider must reimburse the client for any care paid for by the client above the family share co-payment.

(1) Providers must monitor the POS machine to ensure correct attendance times are recorded. If incorrect times are recorded, the provider can void the incorrect transaction and ask the client to start over.

(2) When clients forget to swipe their EBT card for a day their child attends care, record incorrect times that are voided by the provider, or receive a denied error message, the system allows the client to swipe previous in and out times for the current day and the previous nine days.

(3) Based on attendance recorded and the level of care authorized, electronic settlements to providers are made weekly.

(d) **EBT payment week.** The EBT payment week begins every Sunday at 12:01 A.M. and ends every Saturday at midnight. Electronic settlements are made each week in the provider's designated financial institution account on Tuesday morning for services provided two weeks prior to the current week. If the financial institution is closed on Monday or Tuesday or Monday is a holiday, the electronic settlement is deposited on Wednesday morning.

(e) **Manual claims process.** When the provider reports he or she was not paid correctly, ~~he or she can~~ provider may submit Form 10AD121E or ask the client's worker to submit Form 10EB004E, Report of EBT Child Care Payment Adjustments, to the Finance Division for a manual adjustment. The provider waits to submit Form 10AD121E until approximately the 20th of the next month. Finance Division staff evaluate whether to adjust payment to the provider based on why care was not paid electronically.

(1) If the client did not attempt to record attendance electronically, no payment is made to the provider for days swipes are not recorded unless extenuating circumstances beyond the client's and/or provider's control exist. These extenuating circumstances must be documented on Form 10AD121E.

(2) If the client swiped correct attendance times but swipes were denied in error, Finance Division staff makes manual adjustments.

(3) If the family share co-payment applied by the EBT system was incorrect, Finance Division staff makes manual adjustments.

(4) If the provider was paid the wrong rate ~~either~~ because of incorrect coding of the child care plan, an incorrect birth date shown for a child, or an incorrect star status paid, Finance Division staff makes manual adjustments.

(f) **Absent day payments.** Providers can be paid an absent day payment for a child who misses some days of scheduled attendance and is authorized for a weekly unit type. An absent

day payment is electronically deposited in the provider's account in their weekly settlement received after the tenth of the month following the month care was given. To be eligible to receive this additional payment, the child must be approved for a weekly unit type and attend the minimum number of full-time days shown on OKDHS Appendix ~~08AX006E~~ C-4-B, Child Care Provider Rate Schedule, for that month. The provider is not eligible for an absent day payment if the child did not attend the minimum number of full-time days for that calendar month or attended the maximum days paid that is also shown on OKDHS Appendix ~~08AX006E~~ C-4-B.

SUBCHAPTER 13. CHILD CARE RATES AND PROVIDER ISSUES

340:40-13-3. Child care payments and rates

(a) The Oklahoma Department of Human Services (OKDHS) contracts to purchase out-of-home child care services for children only with licensed providers who:

(1) post rates and fees;

(2) sign and comply with all the terms of Form 08CC001E, Child Care Provider Contract;

(3) have participated in mandatory contract training; and

(4) have access to an account at a financial institution for electronic benefit transfer (EBT) purposes.

(b) In accordance with Section 85.44B of Title 74 of the Oklahoma Statutes, OKDHS cannot make advance payments to child care providers.

(c) The rates paid by OKDHS are determined by:

(1) the child's age;

(2) settings in which the care is provided:

(A) the child's own home;

(B) a child care center; or

(C) a child care home;

(3) whether the child has disabilities and the provider is approved for the special needs rate unit type. The special needs rate is added to the applicable rate a child care provider receives for a typical child of the same age after the Form 08AD006E, Certification for Special Needs Child Care Rate, approval process is followed;

(4) whether the care is provided full-time, over four hours per day or part-time, four hours or fewer per day;

(5) whether the worker approves a full-time daily, part-time daily, a combination of full-time and part-time daily, blended, or a weekly unit type;

(6) the county in which the provider is located; and

(7) whether the facility qualifies for a differential quality rate.

(d) The in-home child care rate is paid for children cared for in their own homes. The in-home rate is ~~90% of the one star child care home daily rate~~ shown on OKDHS Appendix ~~08AX006E~~ C-4-B, Child Care Provider Rate Schedule, for the child's age. If a child is eligible for the severe or moderate special needs rate, this additional amount is added to the applicable in-home rate for that child.

(e) When the child is cared for in an out-of-home child care center or home, the allowable rate is the amount as shown on OKDHS Appendix ~~08AX006E~~ C-4-B.

(f) Care may only be authorized at one facility per day per child. If the client uses care at two different providers for the same day for the same child, OKDHS staff approves care at only one of the facilities. The parent or caretaker can use care at two different providers for the same child when care is needed on different days of the week.

(g) Charges are authorized and payment is made only when the care provided is in accordance with the jointly developed plan of service between the client and OKDHS.

(h) Age-driven rate changes are effective the first of the month following the child's birth date except as shown in (i) of this Section.

(i) Eligibility for a child stops the day before:

(1) a typical child reaches age 13; or

(2) a child with disabilities or a child in OKDHS custody reaches age 19.

(j) A change to add the higher special needs rate to the applicable daily rate is effective the first of the month following the month eligibility for this rate is determined.

(k) A child care provider may be approved for a differential quality rate if he or she meets the criteria for this rate. This rate is given effective the first of the month following the month Oklahoma Child Care Services (OCCS) licensing staff approves the provider for the rate. The rate is designated on OKDHS Appendix ~~08AX006E~~ C-4-B by its star status.

(l) The traditional school year blended rate may be approved for children age four and older from August 16th through May 15th each year for children attending public school, a pre-kindergarten program, or Head Start during the traditional school year. The extended school year blended rate may be approved for the full calendar year when children attend school the entire year.

340:40-13-5. Child care provider contracts

(a) **Criteria.** In order for the Oklahoma Department of Human Services (OKDHS) to purchase out-of-home child care services, a provider must have a current Form 08CC001E, Child Care Provider Contract, signed by both the owner of the facility and the OKDHS Director or designee on file with the Family Support Services Division (FSSD) Child Care Subsidy Section. OKDHS assures all persons that OKDHS or any provider of contractual services, does not take into account a person's race, color, religion, sex, national origin, or disability in the selection or eligibility of ~~individuals~~ persons to receive services and in the manner of providing them. Age may be a factor only to the extent that certain services are designed for a particular age group.

(1) Written complaints of noncompliance with the assurance in (a) of this Section may be made to the Director of OKDHS or to the Secretary of Health and Human Services, Washington, D.C. 20201.

(2) Local Oklahoma Child Care Services (OCCS) licensing staff ~~provide~~ provides initial information about contracts for child care facilities. The provider contacts the child care liaison to request a contract.

(3) Child care contracts are valid for a maximum of one year. ~~They~~ Contracts are automatically renewed for successive one year terms, under the same terms and conditions, unless either the child care provider or OKDHS gives written notice of its intent not to renew to the other party at least 30 calendar days prior to the expiration of the current term.

(b) **Procedure for obtaining child care contracts.** Out-of-home providers may only obtain an OKDHS contract if they are licensed or on permit. A child care center provider requesting an initial contract must be licensed or permitted and have a one plus, two, or three star status before signing Form 08CC001E. A one star child care home provider requesting an initial contract must be licensed; not on permit, before signing Form 08CC001E. A child care home provider at one plus, two, or three star status requesting an initial contract must be licensed or permitted before signing Form 08CC001E. The procedures in (1) through (8) of this subsection are used to obtain child care contracts.

(1) OCCS licensing staff give the child care provider a promotional flyer containing information about contracting with OKDHS. The provider is instructed to contact the child care liaison for training and review of the contracting requirements.

(2) When contacted by the owner or director of a child care facility, the child care liaison explains that the owner must review the "Contracting with DHS for Child Care Subsidy Payments Handbook," view the required training, and pass the proficiency test before an initial contract is submitted to the FSSD Child Care Subsidy Section.

(A) If the owner of a child care center does not live in Oklahoma, the director of the facility must also fulfill this requirement.

(B) Child care directors are not required but are highly encouraged to ~~also~~ view the required training.

(3) If the provider wishes to contract with OKDHS following this training, the child care liaison gives Form 08CC001E to the child care provider after typing all identifying information on the contract. The child care liaison explains that the earliest date a contract is valid is the date of approval by the OKDHS Director or designee.

(4) The owner and director sign the contract before a Notary Public and return the contract to the child care liaison. The owner must also provide proof of his or her identity, a copy of his or her Social Security card, and proof of ownership of the child care business.

(5) The child care liaison sends Form 08CC001E to the FSSD Child Care Subsidy Section for approval or denial along with:

(A) the Contract Routing Checklist;

(B) a copy of the owner's Social Security card;

(C) proof of ownership;

(D) a copy of the provider's Oklahoma State Bureau of Investigation (OSBI) background investigation report;

(E) a copy of the OSBI background investigation report for the:

(i) director and/or business manager of a child care center; ~~or the~~

(ii) spouse of a child care home owner; ~~and~~ or

(iii) assistant caregiver in a large family child care home; and

(F) proof of the employer identification number (EIN) for a child care center provider.

(6) If the child care provider signs Form 08CC001E but fails to complete other contracting requirements within 30 calendar days, the child care liaison attaches Form 08CC001E to the Contract Routing Checklist and sends it to the FSSD Child Care Subsidy Section for denial.

(7) If approved, the FSSD Child Care Subsidy Section staff ~~assign~~ assigns a contract number and ~~send~~ sends a copy of the signed contract back to the provider.

(8) If denied, the FSSD Child Care Subsidy Section returns the original contract to the provider with a letter advising the provider OKDHS has decided it is in the best interest of OKDHS not to contract with the provider.

(c) **Out-of-state providers.** OKDHS does not contract with out-of-state child care providers.

(d) **Changes that must be reported.** Form 08CC001E advises child care providers to report to the FSSD Child Care Subsidy Section the anticipated sale of the business, change of legal business entity, change of location, or plan to stop caring for children no less than 30 calendar days prior to the change occurring. When the provider fails to report the anticipated change timely and a new contract is needed, a gap may occur in the child care subsidy payment to the provider. A new contract is required in the situations included in (1) through (4).

(1) **Change in facility status.** A change in facility status occurs when a facility changes from a home to a center or a center to a home. A change from a family child care home to a large family child care home does not require a new contract as long as the same license number is used.

(A) When the status of a child care home changes to a child care center, a new license application is required. Prior to signing a new contract, the provider must be issued a license or permit at one plus, two, or three star status.

(B) When the status of a child care center changes to a child care home, a new license application is required. Prior to signing a new contract, the provider must be issued a license or permit at one plus, two, or three star status, or be licensed; not permitted, at one star status.

(2) **Change in ownership for a child care center.** The new owner must meet or be anticipated by OCCS licensing staff to meet one plus, two, or three star status within 30 calendar days before a new contract is signed and submitted to the FSSD Child Care Subsidy Section.

(3) **Change of location.** When a child care center or home provider changes the location of his or her child care business, the provider must sign a new license application agreeing to care for children only in the new location and notify FSSD Child Care Subsidy Section staff of the new location. The provider's license and contract remain open with the same:

(A) begin date~~,~~;

(B) ~~the same~~ number assigned~~,~~; and

(C) ~~the~~ star status ~~remains the same~~.

(4) **Change of legal business entity.** The child care provider must complete a new license application and contract when ~~he or she~~ the provider changes his or her legal business entity. Examples of changing legal business entity include changing from a sole proprietor to a corporation, partnership, or limited liability company. The provider must provide proof of ownership.

(A) A child care center provider who was at one plus, two, or three star status under their previous legal business entity ~~can~~ may sign and submit Form 08CC001E to the FSSD Child Care Subsidy Section while the new license application is pending. A child care center provider who was at one star status under the previous legal business entity ~~cannot~~ may not sign a new contract until attaining one plus, two, or three star status even if a child already receiving child care subsidy benefits is currently in care under their previous legal business entity.

(B) Child care home providers who were at one plus, two, or three star status under their previous legal business entity ~~can~~ may sign and submit Form 08CC001E to the FSSD Child Care Subsidy Section while the new license application is pending. Child care home providers who were at one star status may only sign a new contract once they are licensed; they ~~cannot~~ may not be in permit status.

(e) **Providing care at a different site than is authorized.** When the child care provider signs the child care contract, he or she agrees to provide care only at the physical address designated in the contract. In certain circumstances, a child care center provider who owns more than one child care center only may move children eligible for subsidized child care benefits to an alternate center after he or she receives prior approval in writing from the FSSD Child Care Subsidy Section authorizing him or her to move the children and the point-of-service (POS) machine to the alternate site for a designated period of time. FSSD Child Care Subsidy Section staff ~~give~~ gives approval when:

(1) the same owner or legal business entity owns the alternate site;

(2) the alternate site is licensed and contracted at the same star level;

(3) there is a legitimate business reason for providing care in another location; and

(4) the provider advises FSSD Child Care Subsidy Section staff how he or she is ensuring that parents are aware their children are being cared for at a difference location.

(f) **Renewal of child care contracts.** Child care provider contracts are effective for terms not to exceed one year, the commencement date of which is determined by the FSSD Child Care Subsidy Section staff. Contracts are automatically renewed for successive one year terms, under the same terms and conditions, unless either the provider or OKDHS gives written notice of its intent not to renew to the other party at least 30 calendar days prior to the expiration of the previous term. A contract is not renewed when a provider fails to attend required contract training or to provide any other information or documents requested during the contract renewal period.

(g) **Contract violations.** When the child care provider signs Form 08CC001E, the provider is agreeing to abide by the terms of the contract. When human services center (HSC) staff become aware that a provider is violating the terms of the contract, he or she advises the provider to stop the practice immediately and sends an e-mail to FSSD Child Care Subsidy Section advising of the circumstances. ~~He or she~~ HSC staff may also complete Form 19MP001E, Referral Form, to report the violation to the Office of Inspector General. Examples of contract violations include, but are not limited to:

(1) discriminating against persons seeking services either by charging a discriminatory rate or violating a person's rights as listed in the Civil Rights Act of 1964 as amended, the Rehabilitation Act of 1973 as amended, or the Americans with Disabilities Act of 1990;

(2) failing to maintain a drug-free workplace;

(3) possessing or swiping a client's electronic benefit transfer (EBT) card;

(4) knowing a client's personal identification number (PIN);

(5) failing to ensure accurate time and attendance information was recorded by the parent or caretaker on the POS machine. The attendance, not time, of a child approved for the part-time or blended unit type must be recorded during the school year by the parent or caretaker;

(6) charging a client receiving subsidized child care more than the OKDHS rate for days and hours within the client's plan of service;

(7) charging a client for days and hours outside of client's plan of service or requiring that the client swipe attendance for those days and hours when the additional hours are a requirement of the provider and not a choice of the client;

(8) moving the children from the agreed upon location shown in the contract for reasons other than field trips and claiming for services at ~~this~~ the other location without prior written approval from the FSSD Child Care Subsidy Section;

(9) moving the POS machine and allowing parents to record time and attendance at a different location than agreed upon in contract without receiving prior written approval from the FSSD Child Care Subsidy Section in accordance with subsection (e) of this Section;

(10) failing to advise and provide OKDHS a completed copy of any agreement the provider enters into within 30 calendar days of entering into ~~such~~ a collaboration or agreement. This includes agreements with Head Start, Early Head Start, public schools, and/or any other programs receiving state or federal funding;

(11) claiming and/or receiving payment from OKDHS for the same hours of care the provider receives payment from another state or federal funding source;

(12) failing to inform OKDHS of a change in facility status, location, legal business entity, or ownership of

the business at least 30 calendar days in advance of the change;

(13) filing manual claims when ~~they~~ claims could be filed through the EBT system;

(14) failing to post all of the facility's rates and fees;

(15) subcontracting services to another provider without written prior approval from OKDHS;

(16) refusing unlimited access by a parent or caretaker to the facility during the hours of operation;

(17) refusing to make available to OKDHS within an hour of request by any OKDHS representative all business records that document proper fiscal and program management by the provider;

(18) breaching the contract signed by the provider with the OKDHS EBT contractor;

(19) not maintaining written records for any manual claims filed during the last three years; ~~and~~

(20) failing to inform OKDHS in writing within ten calendar days of any person who has an ownership or controlling interest in, or is an agent or managing employee of the child care business, who has been convicted of a criminal offense related to such person's involvement under Titles XVIII, XIX, or XX of the Social Security Act; and

(21) failing to report the income from the child care business within ten calendar days to his or her Family Support Services (FSS) worker if receiving benefits.

(h) **Cancellation of child care provider contracts.** FSSD Child Care Subsidy Section staff initiates the cancellation by issuing a notice to the provider by certified mail and regular mail at the same time.

(1) Contracts may be canceled:

(A) with cause. The effective date of cancellation is 13 calendar days after FSSD staff mail the notice. This allows three calendar days for mailing time. The notice must contain a reference to the grounds for cancellation including the specific contract provision(s) that was violated; or

(B) without cause. The effective date of cancellation is 33 calendar days after FSSD staff mail the notice. This allows three calendar days for mailing time.

(2) The FSSD Child Care Subsidy Section communicates with the child care liaison when a contract is being canceled to ensure that ~~human services center~~ HSC staff have sufficient time to plan with clients to find another facility, if necessary. When it is necessary to cancel authorizations with a child care provider, the provider is notified by use of a computer-generated notice. FSSD Child Care Subsidy Section staff closes all authorizations with the provider whose contract is canceled.

~~(3) When OKDHS initiates contract cancellation, FSSD Child Care Section staff route all correspondence regarding contract cancellation proceedings to:~~

~~(A) OCCS licensing coordinator;~~

~~(B) Legal Division;~~

~~(C) Finance Division;~~

~~(D) Office of Inspector General;~~

~~(E) FSSD Overpayment Section;~~

~~(F) Commodity Distribution Unit;~~

~~(G) the Child Care Resource and Referral Agency serving the area where the provider is located;~~

~~(H) Department of Education, Child Care Food Program;~~

~~(I) Cherokee Nation, if serving the area where the provider is located;~~

~~(J) Creek Nation, if serving the area where the provider is located;~~

~~(K) Choctaw Nation, if serving the area where the provider is located;~~

~~(L) Field Operations Division area office where the provider is located; and~~

~~(M) the local county director, child care liaison, OCCS licensing supervisor, and OCCS licensing staff where the provider is located.~~

~~(4) Copies of all correspondence regarding contract cancellation proceedings that are initiated by the provider are routed by the FSSD Child Care Section to:~~

~~(A) Finance Division; and~~

~~(B) local county director, child care liaison, OCCS licensing supervisor, and OCCS licensing staff where the provider is located.~~

[OAR Docket #09-492; filed 3-25-09]

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

[OAR Docket #09-493]

RULEMAKING ACTION:
PERMANENT final adoption

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]
Part 3. Income
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]
Part 3. Simplified Food Stamp Program (SFSP) for Temporary Assistance for Needy Families (TANF) and Companion State Supplemental Payment (SSP) Recipient(s)
340:50-11-23 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)

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n/a

ANALYSIS:
Chapter 50 rules are amended 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) remove language that Individual Retirement Accounts (IRAs) and some Keogh Plans are countable resources; and (19) add language that retirement plans and education accounts described in federal law are exempt as a resource.

CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2009:

SUBCHAPTER 1. GENERAL PROVISIONS

340:50-1-1. Purpose

(a) The purpose of this Chapter is to describe the operation of the ~~Department's Food Stamp~~ Oklahoma Department of Human Services (OKDHS) Supplemental Nutrition Assistance Program (SNAP). The purpose of ~~the Food Stamp Program~~ SNAP is to utilize, as efficiently as possible, the nation's food abundance to raise the nutritional levels and improve the general health of the nation's low-income households.

(b) ~~The Department~~ OKDHS has total and direct responsibility for initiating and monitoring program informational activities for ~~the Food Stamp Program~~ SNAP in Oklahoma.

(1) ~~Program~~ SNAP informational activities consist of comprehensive and ongoing activities to convey information about the program, including household rights and responsibilities, to applicant and recipient households through such means as publications, media, posters, and face-to-face contacts.

(2) Nutrition education information is available to instruct and emphasize basic nutritional concepts and consumer practices for ~~Food Stamp Program~~ SNAP applicants and recipients.

(c) Nutrition education and program informational materials are available to the ~~county office~~ local human services center (HSC) through regular pamphlet distribution procedures. ~~County offices~~ HSC staff are responsible for informing applicants and recipients of the availability of these materials at the time of initial application and recertification.

340:50-1-2. Legal basis

The Oklahoma Department of Human Services ~~(DHS)~~ (OKDHS) has legal authority to participate in the ~~Food Stamp~~ Supplemental Nutrition Assistance Program by the ~~National~~

~~Food Stamp Act of 1977~~ Food and Nutrition Act of 2008 [P.L. 110-246], and ~~by 56 O.S. Supp. 1978 Section 241.244~~ Sections 241 through 244 of Title 56 of the Oklahoma Statutes.

340:50-1-3. Utilization of benefits

(a) **Scope and applicability.** Under the ~~Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP), households receive food ~~stamps~~ benefits based on their level of need. Participating households may use their benefits to purchase eligible food at retail stores which are authorized by Food and Nutrition Services (FNS) to accept benefits. State and/or local sales tax cannot be charged on eligible food purchases paid for with benefits. In specified instances, persons may use their benefits to purchase prepared meals.

(b) **Eligible food.** ~~"~~Eligible food~~"~~ means:

(1) any food or food product intended for human consumption except alcoholic beverages, tobacco, ~~and~~ hot foods, and hot food products prepared for immediate consumption;

(2) seeds and plants to grow foods for the personal consumption of eligible households;

(3) meals prepared and delivered by an authorized meal delivery service to households eligible to use benefits to purchase delivered meals; ~~or~~

(4) meals served by an authorized communal dining facility ~~for the elderly, for Supplemental Security Income (SSI) households or both,~~ to households eligible to use benefits ~~for communal dining~~;

(~~4~~5) meals prepared and served by a drug addiction or alcoholic treatment or rehabilitation center ~~for drug addicts and/or alcoholics~~ to eligible residents and children of residents who live with their parents in the treatment center;

(~~5~~6) meals prepared and served by a group living arrangement facility to residents who are blind or disabled as defined in OAC 340:50-5-4;

(~~6~~7) meals prepared ~~by~~ and served by a shelter for battered women and children to its eligible residents; and

(~~7~~8) meals prepared and served by a public or non-profit homeless meal provider to eligible homeless households.

(c) **Communal dining and meal delivery services.** The criteria in (1) through (2) of this subsection is used to determine whether household members can qualify to use their food benefits at communal dining facilities or for meal delivery services.

(1) **Communal dining.** A person 60 years of age or over or ~~an SSI recipient~~ a person receiving Supplemental Security Income (SSI) and his or her spouse, regardless of the spouse's age, may use benefits to purchase meals especially prepared at a communal dining facility authorized by FNS to accept food benefits. A communal dining facility may accept benefits only after authorization by FNS. ~~"~~Communal dining facility~~"~~ means a facility such as:

(A) senior ~~citizens'~~ citizens centers;

(B) apartment buildings occupied primarily by elderly persons;

(C) any public or non-profit private school which prepares meals especially for elderly persons during special hours and certain other public or non-profit establishments that prepare and serve meals for the elderly; and

(D) a private establishment under contract with a state or local agency to offer at concessional prices, meals prepared especially for the elderly or disabled.

(2) **Meal delivery service.** A person 60 years of age or older or a person under age 60 who is physically ~~handicapped~~ or otherwise disabled to the extent that ~~he or she~~ the person is unable to adequately prepare all his or her meals is eligible to purchase meals with benefits. If the household member lives with a spouse, the spouse may also purchase meals from a non-profit meal delivery service regardless of age or disability.

(d) **Social services.** The worker is responsible for providing those services, within Oklahoma Department of Human Services (OKDHS) policy, that the family needs and desires and for making appropriate referrals as indicated. It is mandatory that referrals be made to the Children and Family Services Division, Child ~~Welfare Unit~~ Protective Services, on all situations involving suspected abuse of children.

(e) **Volunteers.** Volunteers or persons other than workers may be used in program informational activities, assisting the client with applications and transportation, but may not interview the client to determine eligibility or certify households.

340:50-1-5. Non-discrimination

Applications for participation in the ~~Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP) are handled in a non-discriminatory manner without regard to age, race, color, sex, ~~handicap~~ disability, religious creed, political beliefs, or national origin.

~~(1) Each county director or his or her designee initiates and maintains a plan to inform the public that the Food Stamp Program is administered in a non-discriminatory manner. Each county office must contact local minority group organizations by letter. If there is not a local minority group organization, the county office makes a personal or written contact with prominent minority leaders, ministers, teachers, and businessmen in May of each year.~~

~~(2) A copy of each letter of notification of non-discrimination is forwarded to the Oklahoma Department of Human Services (OKDHS), affirmative action officer. The county office maintains a file of all such correspondence that is available for inspection during compliance reviews and audits of the Food Stamp Program.~~

~~(3) Each county office is responsible for displaying the United States Department of Agriculture (USDA) nondiscrimination poster in each reception area and each interviewing office.~~

(~~4~~1) ~~Individuals~~ Persons who believe they have been subject to discrimination may file a written complaint within 180 calendar days with the Secretary of Agriculture, Administrator of Food and Nutrition Services (FNS), or ~~file the complaint~~ with OKDHS ~~who routes it to FNS~~.

(2) The worker explains the complaint system to each ~~individual~~ person who expresses an interest in filing a discrimination complaint and advises the ~~individual~~ person of the right to file a complaint.

~~(5) Every effort is made to have the person making the complaint provide the:~~

~~(A) name, address, and telephone number or other means of contacting the person alleging discrimination;~~

~~(B) location and name of the organization or office which is accused of discriminatory practices;~~

~~(C) nature of the incident or action or the aspect of program administration that led the person to allege discrimination;~~

~~(D) reason for the alleged discrimination, age, race, color, sex, handicap, religious creed, national origin, or political belief;~~

~~(E) names, titles, and addresses of persons who may have knowledge of the alleged discriminatory acts; and~~

~~(F) date or dates on which the alleged discriminatory action occurred.~~

~~(6) All complaints received by OKDHS regarding civil rights are forwarded to the OKDHS affirmative action officer, who serves as the OKDHS civil rights coordinator, and routes the complaint to the United States Department of Agriculture for investigation.~~

340:50-1-6. Disclosure of information

(a) The use or disclosure of information regarding ~~Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP) applicant households is restricted to ~~the following persons~~:

(1) ~~Persons~~ persons directly connected with the administration or enforcement of the provisions of the Food ~~Stamp~~ and Nutrition Act of 2008 or federal regulations, Social Security benefits, ~~Unemployment Insurance Benefits~~ unemployment insurance benefits, other federal assistance programs, or federally assisted state programs which provide assistance to low income ~~individuals~~ persons on a means tested basis~~.~~;

(2) ~~Employees~~ employees of the Comptroller General's Office of the United States for audit examination authorized by any other provisions of law~~.~~; or

(3) ~~Local~~ local, state, or federal law enforcement officials, upon request, ~~will be~~ is provided with the address and Social Security number of a food ~~stamp~~ benefit recipient provided the law officer furnishes the recipient's name and notifies the ~~agency~~ Oklahoma Department of Human Services (OKDHS) the ~~individual~~ person:

(A) is fleeing to avoid prosecution, custody, or confinement for a felony~~,~~;

(B) is in violation of parole or probation~~,~~;

(C) has information necessary for conducting an official duty related to a felony or probation violation~~,~~; or

(D) has an alleged violation of ~~the Food Stamp Act or food stamp~~ SNAP regulations.

(b) If there is a written request to review information contained in the case record by a responsible member of the household, the currently authorized representative of the household, or a person acting in behalf of the household ~~to review materials contained in the case file~~, the ~~material and information contained in the case file shall be~~ information is made available for inspection during normal business hours. ~~However, the State Agency shall withhold~~ OKDHS withholds confidential information, including:

(1) the names of ~~individuals~~ persons who have disclosed information about the household without the household's knowledge; and

(2) the nature or status of pending criminal prosecutions.

340:50-1-9. Rights and responsibilities

(a) ~~The~~ An applicant or recipient for the Supplemental Nutrition Assistance Program (SNAP) has the right to:

(1) make application~~. Any household has the right to file an application~~ on the same day he or she initially contacts Oklahoma Department of Human Services (OKDHS) in person, by telephone, or by mail~~.~~;

(2) designate an authorized representative~~. The household has the right to designate an authorized representative.~~;

(3) be provided information~~. A client, applicant, or recipient has the right to be provided with information concerning the Food Stamp Program.~~ about SNAP;

(4) a face-to-face interview~~. A client has the right to a face-to-face interview whenever he or she~~ when the person is discussing his or her individual situation with OKDHS~~.~~;

(5) a prompt decision~~. A client has the right to be notified~~ in writing of a decision on his or her application and, if eligible, to receive food benefits within 30 calendar days following application~~.~~;

(6) retroactive or lost benefits~~. If~~ when the application has been wrongfully delayed, denied, or terminated~~, the applicant is entitled to lost benefits.~~;

(7) the correct amount of food ~~stamps~~ benefits~~. The applicant, if eligible, is entitled to the correct amount of food stamps~~ based upon current budgetary standards~~.~~;

(8) equal treatment. The applicant has the right to be treated the same as all other food ~~stamp~~ benefit recipients. ~~A person shall not, on~~ On the grounds of race, color, religious creed, national origin, political beliefs, age, sex, or ~~handicap~~ disability, a person applying for SNAP is not:

(A) ~~be~~ excluded from participation ~~in,~~;

(B) ~~be~~ denied benefits ~~of, or be subject~~;

(C) subjected to discrimination ~~under the Food Stamp Program.~~;

(9) a fair hearing~~. The applicant has the right to a fair hearing~~ if dissatisfied with any OKDHS decision or lack of action in regard to his or her food ~~stamp~~ benefit application. The client also has the right to examine his or her case record and all files and documents to be used at a fair hearing~~.~~;

(10) withdraw his or her application~~. The client has the right to withdraw his or her application~~ at any time prior to the determination of eligibility. Once eligibility has been determined, the client has the right to request that his or her case be closed~~.~~; and

(11) examine the case file~~. Upon~~ upon written request from a responsible member of the household or its authorized representative~~, the household may review its case file~~. ~~However,~~ OKDHS may withhold confidential information, ~~as stated~~ in accordance with OAC 340:50-1-6.

(b) The applicant or recipient has the responsibility to:

(1) ~~to~~ submit ~~an identifiable application. The applicant submits~~ an application containing a legible name, address, and signature ~~to be completed during the certification process~~ if he or she wants to participate in ~~the Food Stamp Program.~~ SNAP;

(2) ~~to~~ participate in a face-to-face interview unless it may be waived per OAC 340:50-3-2(b). The applicant or recipient has a face-to-face interview ~~in the food stamp office~~ with a worker prior to initial certification and either a face-to-face or a telephone interview for all recertifications~~.~~;

(3) ~~to~~ supply ~~needed~~ information~~. The applicant has the responsibility to supply information~~ essential to the establishment of his or her eligibility to participate in ~~the Food Stamp Program.~~ SNAP;

(4) ~~to~~ provide required or requested verification. Gross non-exempt income and identified alien status~~, and actual utility expenses in excess of the standard~~ are verified for all households prior to certification. The household has primary responsibility for providing verification. Certain exceptions to these requirements are specified ~~in the verification section [~~ at OAC 340:50-3-3~~]~~.;

(5) ~~for authorized representative. The applicant is responsible~~ be accountable for all information given by the authorized representative ~~and also for~~ that includes any overissuance of benefits that result from erroneous information given by an authorized representative~~.~~;

(6) ~~to~~ report certain changes. The applicant has the responsibility to report all changes which occur between the date of application and the certification interview. The recipient has the responsibility to report certain changes in circumstances within ten calendar days from the date the change becomes known to them~~.~~;

(7) ~~to~~ cooperate~~. The applicant or recipient is required to cooperate with all Program requirements~~ by providing required information~~.~~;

(8) ~~to~~ register for work~~. Unless~~, unless otherwise exempt, ~~from work registration, the applicant or recipient has the responsibility to register for work~~ at the time of the initial application and at each recertification~~.~~; and

(9) ~~to~~ provide a Social Security number (SSN)~~. Each~~ for each household member ~~is required to provide his or her SSN~~.

(c) OKDHS has the responsibility to:

(1) ~~to~~ accept an identifiable application~~. OKDHS must accept an identifiable application~~ when submitted. An identifiable application is an application containing a legible name, address, and a signature~~.~~;

(2) ~~to~~ take prompt action~~. OKDHS must take prompt action~~ on all applications by either approving or denying the application within 30 calendar days from the date the application is filed~~.~~;

(3) ~~to~~ take prompt action on all changes~~. OKDHS is required to take prompt action on all changes~~ to determine if the change affects the household's eligibility or entitlement~~.~~;

(4) ~~to~~ notify the client of the need for recertification~~. OKDHS notifies the client of the expiration of the period of certification. OKDHS sends the client a new application~~ just prior to or at the start of the last month of the household's certification period~~.~~;

(5) ~~to~~ recertify eligible households timely~~. OKDHS has the responsibility to process all subsequent applications timely~~ so there will not be a break in the benefits the client is eligible to receive~~.~~;

(6) ~~to~~ restore lost benefits~~. OKDHS restores benefits to the household if~~ when the food benefits were wrongfully denied, delayed, or terminated~~.~~;

(7) ~~for giving notice of action. OKDHS is responsible for giving~~ give adequate and/or timely notice of action when appropriate~~.~~; and

(8) ~~to~~ provide services. The ~~county OKDHS offices assure~~ local human services center (HSC) ensures that the operating hours ~~of the food stamp offices~~ meet the needs of recipients or applicants who work. Annually each office is reviewed to ensure that such needs are met. The results of these reviews are retained in the Family Support Services Division for review by Food and Nutrition Services (FNS).

SUBCHAPTER 3. APPLICATION PROCESS

340:50-3-1. The application process

(a) **General.** The application process for the Supplemental Nutrition Assistance Program (SNAP) begins with a request for an application form and ends with determining the household's eligibility and entering that determination into the computer system.

(1) The application must be processed no later than 30 calendar days after the signed application is filed in the Oklahoma Department of Human Services (OKDHS) human services center (HSC). ~~The process involves such actions as:~~

~~(A) making application forms available;~~

~~(B) assisting a household in the completion of an application;~~

~~(C) interviewing members of the household or the authorized representative;~~

~~(D) providing necessary collateral contacts for verification; and~~

~~(E) preparing necessary documents to authorize the household to receive and use food benefits.~~

(2) Expedited services must be available to those households who are in immediate need as defined in OAC ~~340:50-11, Part 1~~ 340:50-11-1 through 340:50-11-6.

(3) Persons having lawful alien status must have status verified through Systematic Alien Verification for Entitlements (SAVE) in accordance with OAC 340:65-3-4.

(4) Benefits must be provided retroactively to the date of application for households who have timely completed

the application process and who have been determined eligible.

(b) **Filing applications.** Each household wishing to participate in the ~~Food Stamp Program~~ SNAP must file a separate application. See OAC 340:50-5-1 for household definition. The designated head of household is not required to make the food benefit application. Applications may be made by a responsible household member or authorized representative. A responsible household member or authorized representative completes an authorization for release of information at the time of application, if necessary. Applications may be filed in person or by mail.

(1) **Right to same day filing.** Since the time limit for providing benefits is calculated from the date the application is actually received in the HSC, households are advised of their right to complete and file an application on the same day they contact the HSC. They are also advised they do not have to be interviewed before filing the application and they may file an incomplete application form as long as the form contains the applicant's name, address, and ~~the~~ signature of either an adult member of the household or the household's authorized representative. Food benefits households are encouraged to file the application form on the same day they or their authorized representative contacts the HSC.

(A) Application forms are made readily accessible to potentially eligible households, ~~and~~ groups, and organizations ~~who~~ that assist persons in completing application forms for food benefits.

(B) If the household has contacted the HSC by telephone but is unable to file an application on the same day, or the household has requested food ~~assistance~~ benefits in writing, the HSC mails ~~an application form~~ Form 08MP001E, Request for Benefits, to the household on the same day the written request or telephone call is received.

(C) To facilitate participation in ~~the Food Stamp Program~~ SNAP, households in which all members are applying for a State Supplemental ~~Payments~~ Payment (SSP) or Temporary Assistance for Needy Families (TANF) must be allowed to apply for food benefits at the same time they apply for financial assistance. However, the household's eligibility and benefit level are based on food benefits eligibility criteria and the household is certified in accordance with ~~Food Stamp Program regulations~~ SNAP policy. ~~Special procedures~~ Policy for taking and processing food benefits applications for ~~those~~ SSP and TANF households are provided in OAC ~~340:50-11~~ 340:50-11-20 through 340:50-11-115.

(D) Immediately upon receipt in the HSC, all application forms are screened to determine whether or not the household is entitled to expedited services. HSC screening procedures are instituted for screening applications received through the mail and applications filed in the HSC. All initial applicant households that qualify under the provisions in OAC ~~340:50-11~~ 340:50-11-1 through 340:50-11-6 must receive expedited processing if certified for food benefits whether requested by the client or not.

(2) **Head of household.** A household may select, as head of household, an adult parent of children of any age living in the food benefit household, or an adult who has parental control over children under 18 years of age living in the food benefit household provided all adult household members agree to the selection.

(A) Households select their head of household at each certification action or ~~whenever~~ when there is a change in household composition.

(B) If all adult members do not agree to the selection or decline to select an adult head of household, the household may select another head of household or the worker may designate a head of household.

(C) In no event does the failure to select an adult who has parental control of children delay the certification or result in the denial of benefits for an otherwise eligible household.

(3) **Authorized representative.** An authorized representative is a person who is knowledgeable of the household circumstances and who is designated in writing by the head of the household, spouse, or other responsible household member to act on behalf of the household in applying for and obtaining food benefits. In the event the only adult member of the household is classified as a non-household member, that person may be designated as the authorized representative for minor household members.

(A) When an authorized representative has been designated in writing to make application on behalf of a household, the household is informed they will be held liable for any overissuance which results from erroneous information given by the authorized representative. ~~Whenever~~ When possible, the head of the household or spouse ~~should prepare~~ prepares or ~~review~~ reviews the application even though the authorized representative actually files the application and is interviewed.

(B) Employees of OKDHS and their relatives who are authorized to accept food benefits may not act as authorized representatives without the specific written approval of the local county director after a determination has been made that no one else is available to serve as the authorized representative.

(C) A disqualified person may not act as an authorized representative during the period of disqualification unless the person disqualified is the only adult member of the household able to act on its behalf and the HSC staff determines there is no one else available to serve as an authorized representative.

(4) **Documentation and control of authorized representatives.** The ~~HSC~~ worker ensures an authorized representative is properly designated and has not been disqualified. Limits are not placed on the number of households an authorized representative may represent. Care is taken by the ~~HSC staff~~ worker to ensure the household:

(A) has freely requested the assistance of the authorized representative;

(B) circumstances are correctly reported; and

(C) is receiving the correct amount of benefits.

(5) **Disqualification of authorized representative.** An authorized representative is disqualified from serving as an authorized representative in ~~the Food Stamp Program~~ SNAP for up to one year when evidence demonstrates the person has misrepresented a household's circumstances, has knowingly provided false information pertaining to the household, or has made improper use of benefits. Information indicating that a person should be disqualified as an authorized representative is forwarded to the Family Support Services Division (FSSD) ~~Food Stamp~~ SNAP Section, for a decision. The HSC is notified in writing of the decision. If the person is disqualified, appropriate notification is mailed to the household by FSSD ~~Food Stamp~~ SNAP Section staff. This provision does not apply to persons serving as authorized representatives for group homes or drug addiction and alcoholic treatment programs.

(c) **Processing initial applications.** When an application form is received that contains the applicant's name and address, and is signed by a responsible member of the household or the household's authorized representative, the date of application is the date it is received and stamped into the HSC except as stipulated at OAC 340:50-9-1(c) and OAC 340:50-9-6(e). When the application form has been signed by the responsible person or authorized representative for a household who is also applying for ~~public assistance~~ SSP or TANF, the application is processed in accordance with OAC 340:50-11.

(1) **Normal processing standard for initial applications.** The worker must provide eligible households who complete the initial application process with food benefits within 30 calendar days following the date the initial application was filed.

(2) **Withdrawing of application.** A household may voluntarily withdraw its application at any time prior to the determination of eligibility.

(d) **Second 30 days.** A new application is not needed when a household fails to complete the application process within 30 calendar days if they provide the required verification within 60 calendar days. This includes verification waived for expedited services. When there is a break in the certification, the application and certification dates are changed to the date the verification is provided.

SUBCHAPTER 5. NON-FINANCIAL ELIGIBILITY CRITERIA

PART 1. HOUSEHOLD DEFINITION

340:50-5-1. Food ~~stamp~~ benefit household composition

A food ~~stamp~~ benefit household may be composed of any of the ~~individuals~~ persons or groups of ~~individuals~~ persons listed in paragraphs (1) - (5) ~~of this subsection~~, provided that such ~~individuals~~ persons or groups are not residents of an institution or boarding house. A food ~~stamp~~ benefit household is:

(1) ~~an individual~~ a person who lives alone~~.~~;

(2) ~~an individual~~ a person who lives with others but who customarily purchases food and prepares meals for home consumption separate and apart from the others~~.~~;

(3) a group of ~~individuals~~ persons who live together and customarily purchases food and prepares meals for home consumption~~.~~;

(4) a group of ~~individuals~~ persons who live with others but who customarily purchase food and prepare meals for home consumption separate and apart from the others~~.~~; or

(5) ~~an individual~~ a person age 60 or older and his or her spouse living and eating with others who is unable to purchase and prepare meals because the ~~individual~~ person suffers from a disability considered permanent under the Social Security Act or a non-disease related, severe, permanent disability.

(A) The gross income of the ~~persons~~ others with whom the ~~individual~~ person and his or her spouse are living, is first determined as if they were applying for participation as a separate household. The other persons' gross income ~~of the persons with whom the individual and his or her spouse are living~~, cannot exceed 165% of the poverty level as shown in ~~DHS~~ Oklahoma Department of Human Services (OKDHS) Appendix C-3, ~~Food Stamp~~ Maximum Food Benefit Allotments and Standards for Income and Deductions~~, Income, and Utilities~~, in order for the ~~individual~~ applicant or recipient to participate as a separate household.

(B) When it is not obvious that a person suffers from a non-disease related, severe, permanent disability or that the ~~individual~~ person is unable to purchase and prepare meals, the ~~case manager~~ worker requests a physician's statement of the disability or inability to purchase and prepare meals.

(C) See OAC 340:50-5-4 ~~for~~ regarding how to determine if a person is considered disabled under the Social Security Act when a payment is not received.

340:50-5-3. ~~Individuals~~ Persons who cannot be separate food ~~stamp~~ benefit households

Separate food ~~stamp~~ benefit household status may not be granted to ~~the following individuals~~ persons living together, as described in (1) through (4), even if they customarily purchase food and prepare meals for home consumption separate and apart from the others, ~~(~~except as otherwise specified in this section~~)~~:. Separate status may not be granted to:

(1) ~~A~~ a spouse, ceremonial or common law, of a household member~~.~~;

(2) ~~Children~~ children, 21 years old and under, living with their natural or adoptive parent(s) or stepparent(s)~~.~~;

(3) ~~Children~~ children, under age 18 who live with and are under the control of an adult who is someone other than their natural or adoptive parent(s) or stepparent(s). This provision does not apply to foster children or children

placed in the home by the ~~Development~~ Developmental Disabilities Services Division (~~DD/MR~~ DDSD)~~.~~; or

(4) ~~Individuals~~ persons who live together and customarily purchase and prepare meals together except as described in OAC 340:50-5-1(5).

340:50-5-5. Non-household members

~~Individuals~~ Persons residing in a household who cannot be considered household members are termed non-household members and are not considered in determining the household's eligibility or food ~~stamp~~ benefit allotment. Such non-household members include those described in this subsection.

(1) **Roomers.** Roomers are ~~individuals~~ persons to whom the household furnishes lodging for compensation, but not meals.

(2) **Boarders.** Boarders are ~~individuals~~ persons to whom the household furnishes lodging and meals and who pay a reasonable monthly payment for board. Only the amount paid for board is evaluated to determine if the payment is a reasonable monthly amount. A boarder whose arrangement is for more than two meals per day must pay an amount which equals or exceeds the amount of the maximum food ~~stamp~~ benefit allotment for the appropriate size of the boarder household as shown on Oklahoma Department of Human Services (OKDHS) Appendix C-3, Maximum Food ~~Stamp~~ Benefit Allotments and Standards for Income and Deductions~~, Income, and Utilities~~. Boarders whose arrangements are for two meals or less per day must pay an amount which equals or exceeds two-thirds of the food ~~stamp~~ benefit allotment for the appropriate size of the boarder household as shown on OKDHS Appendix C-3. Boarder status cannot be extended to:

(A) parents who live with children, natural, adopted, or step regardless of age, unless at least one parent is elderly or disabled as defined in OAC 340:50-5-4;

(B) children under the age of 18 under the control of an adult household member. Children placed in foster care ~~and~~ or children placed in the home by the ~~Development~~ Developmental Disabilities Services Division (DDSD) may be considered boarders;

(C) a spouse, ceremonial or common law, of a household member;

(D) siblings, natural, adopted, half or step, unless at least one sibling is elderly or disabled as defined in OAC 340:50-5-4; and

(E) ~~individuals~~ persons paying less than a reasonable monthly payment for meals as described in this paragraph. ~~Individuals~~ Persons furnished both meals and lodging by a household but paying less than a reasonable monthly payment are considered members of the household which provides the meals and lodging.

(3) **Children in foster care ~~and~~ or children placed by DDSD.** Children in foster care ~~and~~ or children placed by DDSD with extended family care providers are considered boarders unless the household requests such ~~individuals~~ persons be included as food ~~stamp~~ benefit household members. The foster care payments and the reimbursements for room and board paid by DDSD are considered as income to the children and, therefore, cannot be included as income to the household caring for the children even when the payments are made to the provider household. The host household has the option to include the children as members of the food ~~stamp~~ benefit household. When the children are included as food ~~stamp~~ benefit household members the entire foster care payment or reimbursement for room and board is counted as income to the household. The income paid to the extended family care provider by DDSD for care rendered is counted as earned income to the provider.

(4) **Live-in attendants.** Live-in attendants are ~~individuals~~ persons who reside in a household to provide medical, housekeeping, child care, or other similar services.

(5) **Students.** Students are persons enrolled in an institution of higher education who are ineligible because they fail to meet the eligibility criteria in OAC 340:50-5-45(a).

(6) **Others.** Others are ~~individuals~~ persons who share living quarters with the household but who do not customarily purchase food or prepare meals with the household.

340:50-5-7. Excluded households and/or household members

(a) **Food ~~Distribution Programs~~ distribution programs (FDP) operated by Indian ~~Tribal Organizations~~ tribal organizations (ITO).** Several ~~Indian Tribal Organizations~~ ITO operate ~~Food Distribution Programs~~ FDP in the State of Oklahoma. Households or any member of a household participating in a FDP are not eligible to participate in the Oklahoma Department of Human Services (OKDHS) ~~Food Stamp~~ Supplemental Nutrition Assistance Program ~~(FSP)~~ (SNAP) the same month. Households with at least one adult member of any Indian ~~Tribe~~ tribe, living within the boundaries of an ITO location either in a rural area or in a town with a population of less than 10,000, may elect to participate in the FDP. A household may switch between the FDP and ~~FSP~~ SNAP as long as there is no dual participation for any member for the same month. To ensure that dual participation does not occur, monthly lists of recipients are exchanged between ITO and OKDHS.

(1) The worker is responsible for checking the ITO listing if there are indications that an applicant could meet the criteria for FDP eligibility. If the household is not on the listing, the worker makes a telephone inquiry to the appropriate ITO to verify the household has not been certified since the date of the last compiled list. Closure of an FDP case must also be verified ~~through~~ by a telephone call to or written notice from the FDP office ~~or by written notice~~ before a household can be certified for food ~~stamps~~ benefits.

(2) The FDP office uses the OKDHS listing for the same verification procedure followed by a telephone call to the ~~county~~ local human services center (HSC) to check on subsequent food ~~stamp~~ benefit receipt. The worker provides any information pertinent to participation in or eligibility for either program.

(3) Dual receipt will result in a food ~~stamp~~ benefit overpayment if the household was already receiving FDP benefits at the time of ~~FSP~~ SNAP certification.

(b) **Ineligible households.**

(1) **Boarders.** Residents of a commercial boarding house and boarders as defined in OAC 340:50-5-5 are not eligible to participate in ~~the Food Stamp Program~~ SNAP.

(A) A commercial boarding house is defined as an establishment which offers meals and lodging for compensation with the intention of making a profit. The number of boarders residing in a boarding house cannot be used to determine if a boarding house is a commercial enterprise.

(B) Households containing a boarder or the proprietor of a commercial boarding house may participate in the program separate and apart from the boarders or residents of the boarding house if that household meets all the eligibility requirements for participation.

(2) **Residents of institutions.** ~~Individuals~~ Persons are considered residents of an institution when the institution provides them with over 50% of three meals daily as part of the institution's normal services. Residents of institutions are not eligible for participation in the program unless they are:

(A) residents of federally subsidized houses for the elderly built either under Section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act;

(B) ~~narcotic addicts or alcoholics~~ persons addicted to drugs or alcohol, who for the purpose of participation in a drug addiction or alcoholic treatment and rehabilitation program, reside at a ~~facility~~ treatment center;

(C) residents of group homes who are considered blind or disabled in accordance with OAC 340:50-5-4. "Group home" means a private or public non-profit residential setting that serves no more than 16 residents that is certified by the Oklahoma State ~~Health~~ Department of Health under regulations issued under Section 1616(e) of the Social Security Act;

(D) ~~individuals~~ persons who do not receive their meals from the institution but prepare their own meals or are participating in a delivered meals program or a communal dining program are eligible for food ~~stamps~~ benefits if they meet other eligibility requirements;

(E) women or women with their children who are temporarily residing in a shelter for battered women and children. Shelter for battered women and children means a public or private non-profit residential facility that serves battered women and their children. If such a facility also serves other ~~individuals~~ persons, a portion of the facility must be set aside on a long term basis to serve only battered women and children;

(F) students who attend school away from home as long as they return home for at least part of each month; or

(G) residents of public or private non-profit shelters for homeless persons.

340:50-5-8.1. Ineligible and illegal aliens

Aliens not identified as qualified aliens in OAC 340:50-5-67(3) are not eligible for food ~~stamp~~ benefits. Income and resources of ineligible aliens are considered available to the household. All aliens who are in the United States unlawfully, must be reported to the United States Citizenship and Immigration Services (USCIS).

PART 3. SPECIAL HOUSEHOLDS

340:50-5-25. Centers, shelters, and group homes

~~Narcotic addicts or alcoholics~~ Persons addicted to drugs or alcohol who regularly participate in a drug addiction or alcoholic treatment program on a resident basis and disabled or blind residents living in group homes who receive ~~social security~~ Retirement, Survivors and Disability Insurance (RSDI) benefits or Supplemental Security Income (SSI) may voluntarily elect to participate in the ~~Food Stamp~~ Supplemental Nutrition Assistance Program. Residents of shelters for battered women and children may be eligible to participate.

340:50-5-26. Drug addiction or alcoholic treatment centers

Residents of drug addiction or alcoholic treatment centers are certified for program participation through the use of an authorized representative who is an employee of, and designated by the publicly-operated, community mental health center or the private, non-profit organization or institution administering the treatment and rehabilitation program. The organization or institution receives and spends the food benefit allotment for food prepared by or served to a person who is drug or alcohol addicted.

(1) **Persons addicted to drugs or alcohol in treatment programs.** Persons addicted to drugs or alcohol who regularly participate in publicly operated or private non-profit drug or alcoholic treatment and rehabilitative programs on a resident basis may voluntarily apply for the ~~Food Stamp~~ Supplemental Nutrition Assistance Program. The child of a resident who lives with his or her parents in the treatment center may also qualify to participate. Residents have eligibility determined as a one person household or, when applicable, as a family unit. They may use all or part of the food benefits issued to them in the treatment center to purchase food prepared for them during the treatment program.

(A) Residents of treatment centers are certified using the same provisions that apply to all other applicant households except certification is completed through use of authorized representatives.

(B) Participants in a drug addict or alcoholic treatment and rehabilitative program are exempt from the work registration requirement. Participation must be verified through the organization or institution

operating the program before granting the exemption if the information is inconsistent with other information on the application, previous application, or other documented information.

(2) **Approved centers.** The drug or alcohol treatment and rehabilitative center must be approved by the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS), or by Food and Nutrition Services (FNS) as a retailer.

(3) **Center responsibility.** All treatment and rehabilitative centers must provide the local human services center (HSC) with a list of currently participating residents on a monthly basis. This list must include a statement signed by a responsible center official attesting to the validity of the list.

(4) **When participant leaves the center.** When a participant leaves a treatment center, the center:

(A) notifies the departing resident household they may have food benefits left in their Electronic Benefit Transfer (EBT) account.

(i) The departing household receives its full food benefit if no food benefits have been spent on behalf of that person's household. These procedures are applicable any time during the month.

(ii) The center accesses only half of the food benefits in the resident's EBT account prior to the 15th of the month.

(iii) If the resident remains in the facility after the 15th day of the month, the remaining food benefits may be accessed on behalf of the resident.

(iv) If the household leaves after the 16th day of the month and the food benefits have already been issued and used, the household does not receive any further food benefits for that month;

(B) is no longer allowed to act as that person's authorized representative;

(C) provides, if possible, the person with ~~a form~~ Form 08FB038E, Changes in Household Circumstances, and advises the person to complete the form showing his or her new circumstances and to return the form to the local ~~Oklahoma Department of Human Services (OKDHS)~~ HSC within ten calendar days;

(D) informs the departing household they must go to the local HSC to secure their own Access Oklahoma card;

(E) deactivates immediately the Access Oklahoma card by calling the phone number shown on the back of the card; and

(F) notifies the HSC the participant left the treatment center.

(5) **Reporting changes.** The treatment center must notify the HSC of changes in the household income or other household circumstances required to be reported as outlined in OAC 340:50-9-5.

(6) **Treatment center liability.** The organization or institution is responsible for any misrepresentation or fraud it knowingly commits in the certification of treatment center residents.

(A) As an authorized representative, the organization or institution must be knowledgeable about the households' circumstances and carefully review these circumstances with residents prior to applying on their behalf.

(B) The organization or institution is strictly liable for all losses or misuse of food benefits held on behalf of resident households and for all over issuances which occur while the households are residents of the treatment center.

340:50-5-29. Homeless households

(a) A household is not required to have a fixed residence in order to receive food ~~stamps~~ benefits. A homeless household is comprised of one or more homeless ~~individuals~~ persons. ~~"~~Homeless ~~individual"~~ person means ~~an individual~~ a person who lacks a fixed and regular night time residence or ~~an individual~~ a person whose primary night time residence is a:

(1) supervised shelter designed to provide temporary accommodations;

(2) half-way house or similar institution that provides temporary residence for ~~individuals~~ persons intended to be institutionalized;

(3) temporary accommodation in the residence of another ~~individual~~ person of not more than 90 calendar days from the application date. The 90-day time frame must be applied to each subsequent period of temporary accommodation as long as it differs in household and location; or

(4) place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings such as a hallway, bus station, lobby, car, or similar places.

(b) All homeless households who incur or can expect to incur a shelter cost during the month are entitled to use the estimated homeless shelter deduction in the ~~DHS~~ Oklahoma Department of Human Services (OKDHS) Appendix C-3, Maximum Food ~~Stamp~~ Benefit Allotments and Standards for Income and Deductions~~, Income, and Utilities~~, to determine food ~~stamp~~ benefit eligibility and benefit level. This estimate covers all shelter costs described in OAC 340:50-7-31. If the household's actual verified shelter cost exceeds the estimated amount, the larger amount is used.

PART 5. STUDENTS, STRIKERS, RESIDENT FARM LABORERS, MIGRANT HOUSEHOLDS, SPONSORED ALIENS, AND SCHOOL EMPLOYEES

340:50-5-46. Strikers

(a) **Definition of a striker.** A striker is defined as anyone involved in a strike or concerted stoppage of work by employees including a stoppage by reason of the expiration of a collective-bargaining agreement and any concerted slowdown or other concerted interruption of operations by employees. Households with one or more members on strike are ineligible unless the household was eligible for food ~~stamps~~ benefits the

day prior to the strike and are otherwise eligible at the time of application. For households receiving food ~~stamps~~ benefits or households eligible before the strike, benefits are not increased as a result of loss of income from the striking members.

(b) **~~Individuals~~ Persons not considered strikers.** ~~Individuals~~ Persons not considered strikers who are eligible for program participation are employees:

(1) whose workplace is closed by an employer in order to resist the demands of the employees;

(2) unable to work as a result of striking employees;

(3) not wanting to cross a picket line due to fear of personal injury or death; or

(4) who are exempt from the work registration requirement the day before the strike for reasons other than employment.

(c) **Determine income.** When a household makes application and a member is on strike, eligibility at the time of application is determined by comparing the striking member's income the day before the strike to the striker's current income. The higher of the two is the income that is used for the striking member. This income is added to other household members' income and the usual deductions are allowed. A household member participating in the ~~Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP) the day prior to the strike who reports a loss of income due to the strike has income determined the same as for an applicant on strike.

(d) **Other certification processes.** Striking members must register for work unless otherwise exempt.

(1) Households containing one or more persons on strike from their place of employment are not certified for a period of more than one month if the household is certified before the 15th day of the month of application. Otherwise, the maximum certification period must be for two months.

(2) ~~A great deal of confusion may result if there is a sudden, large influx of applications due to a strike. In order that applicants may be handled as orderly and timely as possible, county staff may consider using group meetings to explain the program and general procedures and to screen for potential ineligible households.~~ Application forms must be:

(A) supplied when requested ~~at the county office, be~~;

(B) accepted when they are presented~~,~~; and

(C) ~~must be~~ certified or denied within 30 calendar days after receipt.

(3) ~~Individuals~~ Persons and organizations who are parties to a strike, or their facilities, may not be used in the certification process except as a source of verification for information supplied by the applicant.

340:50-5-49. Sponsored aliens

(a) Sponsored aliens whose sponsor signed an enforceable affidavit of support may be subject to sponsor deeming, unless exempt from deeming requirements. The groups listed in (1) through (5) ~~of this Subsection~~ are exempt from deeming requirements.

(1) During any 12-month period, the alien is exempt if he or she is a battered spouse, battered child or parent, or child of a battered person, providing the battered alien lives in a separate household from the person responsible for the battery. The exemption can be extended beyond the 12-month period if the alien demonstrates that the battery is recognized in a court or administrative order and if it is determined by the Oklahoma Department of Human Services (OKDHS) that the battery has a substantial connection to the need for benefits.

(2) If the sponsor lives in the same household as the alien, deeming does not apply because the sponsor's income and resources are already counted. There is no deeming exemption if the sponsor receives food ~~stamps~~ benefits in another household.

(3) If the sponsored alien is ineligible for food ~~stamps~~ benefits because of immigration status, such as he or she is not a qualified alien ~~or a refugee or asylee during the seven year eligibility period~~, the sponsor's income is not deemed to other eligible members of the immigrant's household.

(4) Children under the age of 18 are exempt.

(5) If the alien's own income and any assistance provided by the sponsor or any other ~~individual(s)~~ person is not enough for the alien to obtain food and shelter without the assistance of other assistance programs, the amount of the income and resources attributed to the alien cannot exceed the actual amount provided for a 12-month period. An alien is considered indigent if the sum of alien's household's own income and any cash or in-kind assistance provided by the sponsor or others is less than 130% of the poverty limit as shown on OKDHS Appendix C-3, Maximum ~~Coupon~~ Food Benefit Allotments and Standards for Income and Deductions~~, Maximum Income and Utilities (Food Stamps)~~. Each indigence determination is effective for 12 calendar months and may be renewed for additional 12-month periods.

(A) If exempted under (5) of this subsection, OKDHS is required to send a written notice of the determination to the statistics branch of ~~the Bureau of~~ United States Citizenship and Immigration ~~Service (BCIS)~~ Services (USCIS).

(B) After learning of the reporting requirement, the alien may be given the opportunity to refuse food ~~stamp~~ benefits for himself or herself without withdrawing the entire household's application.

(C) An alien who does not wish to be exempt as indigent can be permitted to have his or her eligibility and benefits determined based on the deeming formula.

(b) The income and resources of a sponsor and his or her spouse are considered as the unearned income and resources of an alien. The income of the sponsor's spouse is considered even if the marriage occurred after the sponsor signed an agreement to support the alien.

(1) A sponsor is defined as ~~an individual(s)~~ a person, not an organization, who executed an affidavit of support or similar agreement on behalf of the alien as a condition

of the alien's entry or admission into the United States as a permanent resident.

(2) In addition to providing information required for any other applicant, if deeming is required, the alien must provide the:

(A) income and resource information of the alien's sponsor and the sponsor's spouse;

(B) number of other aliens sponsored by the sponsor;

(C) Immigration and Naturalization Services (INS) Act under which the alien was admitted and the date of entrance;

(D) alien's birthdate, birthplace, and registration number;

(E) number of dependents claimed on the sponsor's and his or her spouse's income tax statement; and

(F) name, address, and phone number of the sponsor.

(3) ~~Verification~~ In addition to verification requirements described in OAC 340:50-3-3, ~~apply to all information~~ the alien is also required to provide ~~except that~~ proof of nonliquid resources of the sponsor and the number of aliens he or she sponsors ~~must also be verified~~ if a household member has been determined to have committed an intentional program violation per OAC 340:50-15-25.

(4) If an alien has already reported the gross income and resources of the sponsor and the sponsor's spouse in a Temporary Assistance for Needy Families (TANF) case, that income amount may be used for food ~~stamp~~ benefit purposes. The amount of the sponsor's income and resources deemed to the alien is determined by:

(A) using the total monthly gross earned income, including income from self-employment but excluding in-kind or vendor payments to the sponsor and sponsor's spouse, minus 20% of the gross earned income, plus total monthly unearned income.

(i) In-kind assistance such as food and shelter provided to the alien must be included as income in determining indigent exemption only. It is not considered when determining eligibility or benefit levels for the alien household.

(ii) In the absence of actual declared in-kind assistance cost provided by the sponsor, an assigned value of $143 is used;

(B) subtracting the food ~~stamp~~ benefit gross income eligibility standard for the sponsor and the dependents as claimed by the sponsor to determine his or her federal personal income tax liability; and

(C) considering the total amount of the resources of the sponsor and sponsor's spouse less $1,500.

(5) Income and resources of the sponsor and sponsor's spouse considered available to the sponsored alien are:

(A) not considered in determining need of unsponsored members of the alien's household unless actually available;

(B) divided equally ~~where~~ when the sponsor also sponsors other aliens; and

(C) redetermined on a new sponsor if the alien switches sponsors during the certification period.

(6) Changes during the certification period must be reported for both the alien's and the sponsor's household.

(7) Sponsor-to-alien deeming stops when the:

(A) alien becomes a naturalized citizen;

(B) alien can be credited with 40 quarters of work per OAC 340:50-5-67; or

(C) alien's sponsor is deceased.

PART 7. RELATED PROVISIONS

340:50-5-64. Work requirements

(a) **Able-bodied adults without dependents (ABAWDs).** ABAWDs who are members of eligible households receiving food benefits must be exempt from or comply with work requirements to be eligible to participate as a member of any food ~~stamp~~ benefit household for longer than three months, consecutive or otherwise, during any 36-month period. It is the worker's responsibility to explain to the applicant the household member's work requirements and responsibility. At each application the worker must establish that each household member:

(1) is working continuously 20 hours or more per week averaged monthly;

(2) participates in and complies with:

(A) Workforce Investment Act (WIA) Program assignment;

(B) Trade Adjustment Assistance Program assignment; or

(C) Employment and Training (E&T) Program, not including ~~Job Search~~ job search; or

(3) is exempt from the work requirements listed in (b) of this Section.

(b) **Exemptions from the work requirements.** ~~An individual~~ A person is exempt from the work requirement provision of the ~~Food Stamp~~ Supplemental Nutrition Assistance Program if the ~~individual~~ person is:

(1) younger than 18 or 50 years of age and older;

(2) medically certified as physically or mentally unfit for employment.

(A) Persons who are physically or mentally incapable of gainful employment either on a permanent or temporary basis or participating in federal or state programs based on disability are considered exempt.

(B) Persons claiming exemption as unfit for employment must, in the absence of physical evidence, obtain documented evidence from medically qualified sources to substantiate the medical exemption.

(C) Persons claiming temporary exemption are required to comply when they are released by their medically qualified source to return to work;

(3) a parent or other member of a household with responsibility for care of a dependent child younger than 18 years or an incapacitated person of any age;

(4) pregnant;

(5) receiving or has applied for unemployment insurance benefits;

(6) a regular participant receiving treatment for drug or alcohol addiction in a rehabilitative program on a resident or non-resident basis;

(7) an eligible student enrolled at least half-time in any recognized school, training program, or institution of higher education;

(8) a household member registered for or participating in the Temporary Assistance for Needy Families (TANF) Work;

(9) employed a minimum of 30 hours per week or receiving weekly earnings which equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended, multiplied by 30 hours; or

(10) a resident living in a county approved for exemption of the work requirements by the United States Department of Agriculture (USDA).

(c) **Participation without time limits.** Food benefit participation without time limits applies to ~~an individual~~ a person who:

(1) is exempt;

(2) works continuously 20 hours or more per week, averaged monthly; or

(3) participates in and complies with:

(A) WIA Program assignment;

(B) Trade Adjustment Assistance Program assignment; or

(C) ~~Employment and Training~~ (E&T), not including ~~Job Search~~ job search.

(d) **Participation with time limits.** ~~Individuals~~ Persons who are not exempt or fail to comply with work participation requirements are eligible for only three months, consecutive or otherwise, during any 36-month period. Once the three-month eligibility limit has been reached, eligibility can be regained for at least an additional three consecutive months if the ~~individual~~ person:

(1) works 80 hours or more in any 30-day period; or

(2) participates for 80 hours or more in and complies with:

(A) WIA Program assignment;

(B) Trade Adjustment Assistance Program assignment; or

(C) ~~Employment and Training~~ E&T, not including ~~Job Search~~ job search.

(e) **~~Individuals~~ Persons who regain eligibility.** ~~An individual~~ A person can regain eligibility only one time for an additional three consecutive months during the 36-month period by meeting the requirements of (1) or (2) of subsection (d). ~~An individual~~ A person who regains eligibility maintains eligibility by complying with the requirements of subsection (c). If eligibility is subsequently lost, the ~~individual~~ person may receive food benefits only if one of the exemptions listed in subsection (b) is met or the 36-month period has expired.

340:50-5-68. Social Security numbers ~~(SSNs)~~

(a) ~~All~~ Each household ~~members~~ member must provide ~~their SSNs~~ his or her Social Security number (SSN) when applying for participation in the ~~Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP). The worker explains to the applicant that refusal to provide SSNs will result in disqualification of the ~~individual~~ person for whom a SSN is not provided.

(1) If an applicant cannot provide a SSN, proof of application is required prior to certification for each household member except a newborn.

(2) The household must provide the SSN or proof of application for the newborn at its next recertification or within six months following the month the baby is born, whichever is later. ~~Disqualification ends when the SSN is provided or the SSN application is made and verified.~~

(b) **~~Failure to comply.~~** If the worker determines a household member has refused or failed to make all efforts to apply for or provide a SSN for a household member, that ~~individual~~ person is ineligible to participate in ~~the Food Stamp Program~~ SNAP.

(1) The disqualification applies to the ~~individual~~ person for whom the SSN is not provided and not to the entire household.

(2) The income and resources of ~~individuals~~ persons disqualified for failure to provide a SSN are considered in determining food ~~stamp~~ benefit eligibility.

(3) Disqualification ends when the SSN is provided or the SSN application is made and verified.

PART 9. WORK REGISTRATION

340:50-5-86. Persons exempt from work registration

Persons exempt from work registration include:

(1) **Caretakers.** A caretaker is a parent or other household member responsible for the care of a dependent child under age six or an incapacitated person. If the dependent child reaches age six within a certification period, the ~~individual~~ person responsible for the care of the child must comply with the appropriate work registration requirements as part of the next scheduled re-certification process unless he or she is otherwise exempt.

(2) **Applicants for or recipients of unemployment compensation.**

(A) ~~An individual~~ A person who has applied for unemployment insurance benefits (UIB) is exempt from the requirement to register for work during the application process. This is verified by seeing the work registration card. Recipients of UIB are exempt from registration while receiving compensation.

(B) The household or individual household member is disqualified from participation in the ~~Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP) for a period not to exceed two months if a household member is disqualified by the Oklahoma Employment Security Commission (OESC) for UIB for failure to:

(i) meet OESC employment assessment;

(ii) supply information to OESC for availability for work determination;

(iii) report for a job interview referred to by OESC; or

(iv) accept a suitable offer of employment when referred by OESC.

(C) Failure to comply with procedures described in OAC 340:50-5-88 apply to this exception.

(3) **Physically or mentally incapacitated.** Persons who are physically or mentally incapable of gainful employment on a permanent or temporary basis and food ~~stamp~~ benefit applicants participating in federal or state programs based on disability are considered exempt. Other ~~individuals~~ persons claiming exemption as unfit for employment must, in the absence of physical evidence, obtain documented evidence from medically qualified sources to substantiate a disability. Persons claiming temporary disability are required to register when they become able to accept employment.

(4) **Addicts and alcoholics.** A registered participant in a drug addiction or alcohol treatment and rehabilitative program, on a resident or non-resident basis is exempt. This may be verified through organizations or institutions operating the program.

(5) **Students.** A student is defined as ~~an individual~~ a person enrolled at least half-time in any recognized school, training program, or institution of higher education. Only students who meet the criteria in OAC 340:50-5-45 may participate in SNAP. Students are exempt from work registration requirements and retain their student classification during school vacation or breaks providing the person plans to return to school the next term excluding summer school. Persons who do not qualify as students include:

(A) ~~Persons~~ persons not enrolled at least half-time or who experience a break in their enrollment status due to graduation, expulsion, suspension, or who drop-out, or do not intend to return to school ~~are not qualified for this exemption.~~; and

(B) ~~Persons~~ persons enrolled in correspondence courses ~~are not exempt from work registration~~. ~~Only students who meet the criteria in OAC 340:50-5-45 may participate in the Food Stamp Program. Students are exempt from work registration requirements and retain their student classification during school vacation or breaks providing the person plans to return to school the next term excluding summer school.~~

(6) **Temporary Assistance ~~For~~ for Needy Families (TANF) Work Program participants.** Information contained in the TANF case record documents whether a household member is registered for or participating in the TANF Work Program. A household member disqualified from TANF because of TANF Work Program requirements is disqualified from participation in ~~the Food Stamp Program~~ SNAP for a period not to exceed two months. The household member must reside in the ~~county~~ human services center (HSC) boundaries participating in ~~Food Stamp~~ SNAP Job Search and the TANF disqualification resulted from an activity parallel to ~~Food Stamp~~ SNAP Employment and Training (E&T) Program activities described in OAC 340:50-5-88.

(7) **Employed persons.** Persons who are employed and working a minimum of 30 hours weekly or receiving weekly earnings equal to the federal minimum wage multiplied by 30 hours are exempt. Verification of the number of hours employed may be obtained from wage stubs, employers, or the verified hourly wage multiplied by 30.

(A) Persons engaged in hobbies, volunteer work, or other activities for which they receive little or no payment cannot be considered gainfully employed regardless of the amount of time spent in such activities.

(B) Migrant and seasonal farm workers who are under contract or similar agreement with an employer or crew chief to begin employment within 30 calendar days are exempt as employed persons.

(8) **Self-employed persons.** Persons who are self-employed working a minimum of 30 hours weekly or receiving weekly earnings equal to federal minimum wage multiplied by 30 hours are exempt.

(A) Verification of the amount of income from self-employment is sufficient to establish this exemption, provided the amount of income appears to be consistent with a conclusion of full-time employment, 30 hours per week.

(B) If the income is not sufficient to conclude full-time employment, the client must cooperate with the ~~social services specialist~~ worker in establishing the income received is at least sufficient to be considered gainful employment and the volume of work the client is doing justifies a determination the self-employment enterprise is a full-time job for the purpose of this exemption.

(9) **Other exemptions.** ~~Sixteen~~ A 16 or ~~seventeen~~ 17 year ~~olds~~ old person who ~~are~~ is not ~~heads~~ the head of ~~households are~~ household is exempt.

340:50-5-88. Requirements after registration

Requirements after registration in the Job Search Project are applicable only to registrants in the Job Search Project human services center (HSC).

(1) **Employment and ~~training~~ Training (E&T) Program.** The intent of the ~~Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP) E&T Program is to ensure all able-bodied food benefit recipients are involved in meaningful work related activities which will lead to paid employment and a decreased dependency on assistance programs. The Oklahoma Department of Human Services (OKDHS) is responsible for assisting and directing persons in E&T activities which enable them to achieve or maintain economic self support. These activities include registration for E&T, employment related evaluations and assessment, employability planning, counseling, job developing, and job placement.

(A) All work registrants not exempted from work registration who live in the designated ~~Food Stamp~~ SNAP E&T HSC office boundaries or have not been exempted from E&T activity must participate in the ~~Food Stamp~~ SNAP E&T Program. Food benefit recipients exempted from work registration or from

E&T may participate in the ~~Food Stamp~~ SNAP E&T Program as a volunteer.

(B) The E&T requirement applies each time a registrant loses a work registration exemption, re-enters ~~the Food Stamp Program~~ SNAP after a period of absence, or each 12 months, whichever occurs first.

(C) If a work registrant becomes exempt from work registration at any point during the E&T process, E&T requirements no longer apply.

(D) When a work registrant moves from a non-E&T HSC into the Job Search Project HSC boundaries, the E&T is initiated for work registrants immediately following receipt and review of the case file. When a work registrant moves from the Job Search Project HSC boundaries into a non-E&T HSC boundaries, E&T requirements no longer apply.

(2) **~~Food stamp~~ SNAP E&T exemptions.** Mandatory work registrants not exempted from work registration may be exempted from the ~~Food Stamp~~ SNAP E&T Program if the registrant:

(A) resides an unreasonable distance from the HSC or potential employer. A distance is considered unreasonable if the round trip exceeds two hours by public or private transportation;

(B) is a migrant or seasonal farm worker away from his or her home base and following the work stream;

(C) lacks adequate child care;

(D) has physical or mental problems;

(E) is 55 years old or older and working under Title V of the Older American Act; or

(F) is homeless as defined in OAC 340:50-5-29.

(3) **E&T classification.** Participants are classified into four groups.

(A) **Job ready.** The registrant does not have substantial barriers to employment.

(B) **Not job ready.** This classification is assigned when the food benefit work registrant has barriers that require services not available through the ~~Food Stamp~~ SNAP E&T Program. If this classification is assigned, the person's worker or food benefit E&T worker finds services to eliminate these barriers to employment.

(C) **Job attached.** The registrant is temporarily laid off or expects to return to work within 60 calendar days. This classification is assigned for only 60 calendar days. At the end of the 60 calendar day period, the registrant, if still unemployed, is reassessed and reclassified to a different category.

(D) **Exempt.** This classification is assigned if the registrant meets any of the conditions listed in paragraph (2) of this subsection.

(4) **~~Food stamp~~ SNAP E&T component assignments.** Participants classified as job ready are assigned to an E&T component as described in (A) through (C) of this paragraph.

(A) **Job Search.** Participants assigned to this component are required to contact a minimum of 24 employers within an eight-week period or two four-week periods. One eight-week period is eight consecutive weeks of job search with a follow-up meeting after the first four weeks. A two four-week job search period has a period of time between the two job search periods. One follow-up interview is required each four weeks.

(i) A job contact is defined as a registrant presenting himself or herself as available and applying for work.

(ii) Appointments are scheduled on Form 08FB020E, ~~Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP) Employment and Training Letter.

(iii) The job search assignment is given to the registrant in writing on Form 08FB022E, Job Search Plan. This form is also used to schedule follow-up interviews and used by the registrant to report job contacts. Job contacts are reported in writing and the registrant must attest that the signed statement is true. Employers contacted by the registrant are not required to provide written confirmation of the contact, but the registrant is required to sign the statement attesting he or she made the contacts.

(iv) If an E&T participant is referred to a job contact by the food benefit E&T worker and does not make this contact, the E&T worker initiates conciliation per (6)(A) of this Section.

(v) If an E&T participant does not accept a job offered to him or her without good cause, the food benefit E&T worker initiates conciliation per (6)(A) of this Section.

(B) **Workforce Investment Act (WIA) component.** A participant assigned to ~~this~~ a WIA component is eligible for all the services available ~~at~~ through WIA. A participant assigned to this component has completed the job search component without finding a job or is identified by the E&T worker as a person who can benefit from the services available through WIA. When the component is assigned, the participant is provided Form 08TW003E, Interagency Referral and Information, to take to WIA. The E&T participant is responsible for returning to the E&T worker Form 08TW003E signed by a representative of WIA.

(C) **Oklahoma Employment Security Commission (OESC) component.** A participant assigned to this component is eligible for all the services available at OESC. A participant assigned to this component is an E&T participant the E&T worker has determined would benefit from these services. When this component is assigned, the E&T worker gives the participant Form 08TW003E to take to OESC. The E&T participant is responsible for returning to the E&T worker Form 08TW003E signed by a representative of OESC.

(5) **E&T related expenses.** A participant in the ~~Food Stamp~~ SNAP E&T Program may receive up to $25 per

month for E&T activity if another agency is not reimbursing the participant for the same type of activity. Reimbursement is $3 for a half day, four hours or less, and $6 for a full day, more than four hours.

(A) The food benefit E&T worker gives Form 08FB023E, ~~Food Stamp~~ Supplemental Nutrition Assistance Program Employment and Training Participation Report, to the E&T participant to complete Part 1 and return to the HSC during the first week of each month.

(B) A work registrant with a child under 12 years of age required to participate or who volunteer in the ~~Food Stamp~~ SNAP E&T Program is eligible for a maximum child care payment of $200 per month per child paid to the child care provider. See OAC 340:50-5-97 for voucher authorized child care for the ~~Food Stamp~~ SNAP E&T Program.

(6) **Failure to comply.**

(A) A registrant who fails to keep a scheduled E&T interview or fails to comply with E&T requirements and does not meet the good cause provision in (7) of this Section, is given the opportunity to comply through a conciliation period. The purpose of conciliation is to resolve disputes in an informal fashion and avoid invoking penalties. The conciliation period starts the day after noncompliance with E&T requirements is determined and lasts for no more than ten calendar days.

(B) If the registrant has not responded to the conciliation process by the tenth calendar day, the ten-day advance notice is sent. The adverse action is taken for noncompliance of E&T requirements. This notice is sent no later than the last day of the conciliation period.

(C) To comply with conciliation or show a good faith effort to comply, the participant during the conciliation period must:

(i) be assessed or assigned, if he or she failed to be assessed or assigned;

(ii) complete the balance of job contacts or at least three verified contacts, if he or she failed to complete job search component; or

(iii) provide Form 08TW003E, if he or she failed to return Form 08TW003E from the WIA or OESC component.

(D) If conciliation has failed, mandatory disqualification periods are imposed. The disqualification period for households whose non-compliant E&T registrant is the head of household does not exceed the lesser of the duration of ineligibility listed in (i) through (iii) of this paragraph or 180 calendar days. For all other non-compliant E&T registrants, disqualification periods remain in effect until the later of the date the household member complies with the work rules or is disqualified for the:

(i) ~~the~~ first violation, one month;

(ii) ~~the~~ second violation, three months; or

(iii) ~~the~~ third or subsequent violation, six months.

(E) The disqualification cannot be ended unless the required household member meets the criteria in (6)(D) of this subsection, leaves the household, or becomes exempt from work registration.

(i) If any household member who failed to comply with E&T joins another household as the head of household, the entire new household is ineligible for the remainder of the disqualification period.

(ii) If the member who failed to comply with E&T joins another household where he or she is not the head of the household, the person is considered an ineligible household member.

(F) Households and persons disqualified for failure to comply with E&T requirements may request a fair hearing and continue participation.

(G) If the participant fails to comply with E&T requirements and meets the definition of head of household, the food benefits are closed.

(H) If the participant fails to comply with E&T requirements and does not meet the definition of head of household, that person is removed from the case. His or her income and resources continue to be counted.

(I) For purposes of failure to comply with work requirements, the head of household is defined in OAC 340:50-5-90.

(J) The principal wage earner is the household member, including excluded members, who has the greatest earned income in the two months prior to the violation.

(7) **Good cause.** Good cause includes circumstances beyond the registrant's control, such as, but not limited to:

(A) illness;

(B) illness of another household member requiring the presence of the registrant;

(C) a household emergency;

(D) unavailability of transportation; or

(E) lack of adequate child care for children ages 6 through 11.

(8) **Suitable work.** Any employment offered is considered suitable:

(A) if the wage offered is at least the highest of the applicable federal minimum wage, the applicable state minimum wage, or 80% of the federal minimum wage, if neither the state nor federal minimum wage applies;

(B) if the employment offered is on a piece-rate basis and the average hourly wage the employee can reasonably expect is at least equal to the applicable hourly wages specified;

(C) if the registrant, in order to be hired or to continue working, is not required to join, resign from, or refrain from joining any legitimate labor organization;

(D) if the work offered is not at a site subject to a strike or lockout at the time of the offer unless the

strike has been enjoined under the Labor Management Relations Act (Taft-Hartley) or an injunction has been issued under Section 10 of the Railway Labor Act; or

(E) unless the registrant demonstrates or the worker determines the:

(i) risk to health and safety is unreasonable;

(ii) household member is physically or mentally unfit to perform the employment as documented by medical evidence or other reliable information;

(iii) employment offered within the first 30 calendar days of registration is not in the registrant's major field of experience;

(iv) distance from the registrant's home to the place of employment is unreasonable based on the expected wage and the time and cost of daily commuting. Commuting time cannot exceed two hours daily; or

(v) working hours or nature of the employment interferes with the registrant's religious observations, convictions, or beliefs.

(9) **Monitoring E&T.** The Family Support Services Division ~~Food Stamp~~ SNAP Section staff monitor the ~~Food Stamp~~ SNAP E&T Program.

340:50-5-90. Determination of the head of household

(a) For purposes of failure to comply with the voluntary quit provision or work requirements, the head of household is considered the principal wage earner unless the household selected an adult parent of a child(ren) or an adult with parental control of a child(ren) as the head of household.

(b) The principal wage earner is the household member~~, including excluded members,~~ who has the greatest earned income in the two months prior to the violation. This includes excluded household members.

(c) ~~Also, the~~ The principal wage earner who lives with his or her parent or person in the role of ~~his or her~~ parent cannot be the head of household if the parent or person in the role of parent is:

(1) employed for at least 30 hours per week at minimum wage;

(2) registered under ~~Food Stamp~~ the Supplemental Nutrition Assistance Program Employment and Training Program; or

(3) receiving or has applied for unemployment benefits.

340:50-5-97. Voucher-authorized child care for Employment and Training (E&T) activities

Eligible food ~~stamp~~ benefit recipients who live in a ~~Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP) Employment and Training (E&T) ~~county~~ human services center boundary may receive voucher-authorized child care for E&T activities if child care services are necessary for the parent or caretaker to participate in the E&T activities. Participants are eligible for a maximum of 12 full-time days or 24 part-time days in an eight-week period per child.

(1) Child care services are available whether the parent or caretaker is a required or voluntary participant.

(2) In two-parent or two-caretaker families, both parents may participate in E&T activities simultaneously and receive voucher-authorized child care unless one parent or caretaker has been exempted to care for a child(ren) under six years of age.

(3) Child care services are only purchased from licensed and contracted out-of-home child care facilities.

(4) ~~Food stamp~~ SNAP E&T participants are predetermined eligible for voucher-authorized child care and are approved with a zero family share co-payment.

(5) At the end of each calendar month, the client submits to the E&T worker a completed Form ~~FSP 22~~ 08FB022E, Job Search Plan.

(6) An overpayment is written for any voucher-authorized child care used by the client for which he or she was not eligible.

(7) The Family Support Services Division (FSSD) ~~Food Stamp~~ SNAP Section monitors a random selection of cases quarterly to ensure the integrity of the program.

SUBCHAPTER 7. FINANCIAL ELIGIBILITY CRITERIA

PART 1. RESOURCES

340:50-7-1. Resources considered

(a) The resource standards in Part 1 of this Subchapter apply only to households containing a person who is disqualified from the Supplemental Nutrition Assistance Program (SNAP) due to an intentional program violation (IPV) as described in OAC 340:50-15-25.

(1) Eligibility must be denied or terminated if the non-exempt resources described in OAC 340:50-7-3 exceed $3,000 for households with a member who is disabled [OAC 340:50-5-4] or 60 years of age or older, or $2,000 for all other households. ~~These resource standards are applied to all applicant households except those where all members are recipients of Temporary Assistance for Needy Families (TANF). Households where all members are recipients of TANF are considered to meet the resource standards.~~

(2) The household's resources at the time the face-to-face interview is conducted must be used to determine if the household meets resource standards.

(3) The worker:

(A) reviews with the applicant any resources reported on the application~~,~~;

(B) inquires if any resources have been obtained since the application was filed~~,~~; and

(C) verifies all liquid and non-liquid resources which appear to be questionable or are inconsistent with other information reported on the application or ~~other applications~~ or review forms.

(b) Resources are not considered in determining eligibility for food benefits when all household members are considered to be categorically eligible per OAC 340:50-11-111. However, liquid resources must be within the criteria shown at OAC 340:50-11-1 to determine expedited eligibility.

340:50-7-2. Excluded resources

In households applying for or receiving food benefits, resources listed in this Section are excluded for household members, for disqualified members whose resources are counted, or for ineligible aliens who would otherwise be a household member. When an exclusion applies because of use by or for a household member, the exclusion also applies when the resource is used by or for a disqualified person whose resources are counted or for an ineligible alien who would otherwise be a household member.

(1) **Home and surrounding property.** The home and surrounding property which is not separated from the home by intervening property owned by others is exempt. Public right-of-way, such as roads which run through the surrounding property and separate it from the home, does not affect exemption of the property.

(A) The home and surrounding property remain exempt when temporarily unoccupied by reasons of employment, training for future employment, illness, vacation, or uninhabitability caused by casualty or natural disaster so long as the household intends to return.

(B) Households that currently do not own a home, but own or are purchasing a lot on which they intend to build or are building a permanent home receive an exclusion for the value of the lot and, if it is partially completed, for the home.

(2) **Household personal goods, life insurance, and pension plans.** Household goods, personal belongings, including one burial lot per household member, the cash value of life insurance policies, and prepaid burial plans are exempt. The cash value of pension plans or funds described in federal law is excluded~~, except for Individual Retirement Accounts (IRA) and Keogh Plans~~. ~~A Keogh Plan may be excluded if it involves a contractual arrangement with individuals outside the household.~~

(3) **Vehicles.**

(A) Exclude one licensed vehicle per adult household member~~, including an ineligible alien or disqualified household member whose resources are considered available to the household,~~ regardless of the use of the vehicle.

(B) Exclude any other licensed vehicle a household member under age 18~~, including an ineligible alien or disqualified household member under age 18 whose resources are considered available to the household,~~ drives to and from employment, or to and from training or education which is preparatory to employment, or to seek employment. This exclusion applies during temporary periods of unemployment to a vehicle which a household member under age 18 customarily drives to and from employment.

(C) ~~Also exclude~~ Exclude any other licensed vehicle if:

(i) used for income-producing purposes such as, but not limited to, a taxi, truck, or fishing boat, or a vehicle used for deliveries, to call on clients or customers, or required by the terms of employment. Licensed vehicles ~~that have~~ previously ~~been~~ used by a self-employed household member engaged in farming ~~but are no longer used in farming because the household member has terminated his or her self-employment from farming~~ must continue to be excluded as a resource for one year from the date the household member terminated his or her self-employment farming;

(ii) annually producing income consistent with its fair market value, even if used only on a seasonal basis;

(iii) necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member~~, ineligible alien, or disqualified person whose resources are considered available to the household,~~ such as the vehicle of a traveling sales person or of a migrant farm worker following the work stream;

(iv) used as the household's home;

(v) necessary to transport a physically disabled household member~~, physically disabled ineligible alien, or physically disabled disqualified person whose resources are considered available to the household,~~ regardless of the purpose of such transportation. The vehicle need not have special equipment or be used primarily by or for the transportation of the physically disabled household member. Only one vehicle per physically disabled household member may be excluded;

(vi) necessary to carry fuel for heating or water for home use when the transported fuel or water is anticipated to be the primary source of fuel or water for the household during the certification period. Households must receive this resource exclusion without having to meet any additional tests concerning the nature, capabilities, or other uses of the vehicle. Households must not be required to furnish documentation unless the exclusion of the vehicle is questionable;

(vii) the value of the vehicle is inaccessible because its sale would produce an estimated return of not more than $1,500;

(viii) jointly owned by a food benefit household member and someone who does not live with the food benefit household. To be excluded, the vehicle must not be used by, nor in the possession, of anyone who lives in or with the household. The food benefit household member must also be unable to sell the vehicle because the signature of the co-owner is needed and that person will not sign; or

(ix) legally prohibited from being sold by the food benefit household. The determination of whether a food benefit household can legally sell a vehicle is governed by the law of Oklahoma.

(~~B~~D) The exclusions in (i) through (iii) of this subsection continue to apply when the vehicle(s) is not in use because of temporary unemployment such as when a taxi driver is ill and cannot work or the vehicle is broken down and cannot be used.

(4) **Real or personal property directly related to the maintenance of excluded vehicles.** Property, real or personal, to the extent it is directly related to the maintenance or use of a vehicle described in paragraph (3) of this subsection is excluded. Only that portion of real property determined necessary for maintenance or use is excluded.

(5) **Income producing property.** Income producing property which annually produces income consistent with the fair market value is excluded even if used on a seasonal basis.

(6) **Property essential to employment.** Property, such as farm land or work related equipment including tools of a tradesman or the machinery of a farmer, which is essential to the employment or self-employment of a household member is excluded. Property of a household member engaged in farming continues to be excluded for one year from the date the household member terminates his or her self-employment from farming.

(7) **Installment contracts.** Installment contracts for the sale of land or buildings are excluded if the contract or agreement is producing income consistent with its fair market value. The exclusion applies to the value of the property sold under the installment contract or held as security in exchange for a purchase price consistent with the fair market value of that property.

(8) **Inaccessible resources.** Resources whose cash value is not accessible to the household are exempt, such as but not limited to, irrevocable trust funds, security deposits on rental property or utilities, property in probate, and real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold. If questionable, the worker establishes that the property is for sale and that the household will accept a reasonable offer.

(A) A resource is considered inaccessible if its sale or other disposition is unlikely to produce funds amounting to one half or more of the applicable resource limit for the household.

(B) The value of the inaccessible resource is the amount of the expected return to the household after subtracting estimated cost of sale or disposition, and consideration of the ownership interest to the household.

(C) A single resource may not be subdivided solely to obtain an exclusion as inaccessible.

(D) This inaccessible provision does not apply to vehicles or financial instruments such as stocks, bonds, or negotiable financial instruments.

(E) Any funds in a trust, ~~or~~ transferred to a trust, and the income produced by that trust, to the extent it is not available to the household, is considered inaccessible to the household if:

(~~A~~i) the trust arrangement is not likely to cease during the certification period and no household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period;

(~~B~~ii) the trustee administering the funds is ~~either~~:

(I) a court~~,~~; ~~or~~

(II) an institution, corporation, or organization which is not under the direction or ownership of any household member~~,~~; or

(III) ~~an individual~~ a person appointed by the court who has court imposed limitations placed on his or her use of the trust funds;

(~~C~~iii) trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, or influence of a household member; and

(~~D~~iv) the funds held in irrevocable trust are ~~either~~ established from:

(I) the household's own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expenses of any person named by the household creating the trust~~,~~; or ~~established from~~

(II) non-household funds by a non-household member.

(9) **Education assistance.** All education grants, work study, scholarships, and student loans are exempt if receipt is contingent upon the student regularly attending school.

(10) **Resources excluded by law.** Resources currently excluded by law are:

(A) payments received:

(i) under the Alaska Native Claims Settlement Act [Public Law (P.L.) 92-203, § 21(a)];

(ii) under the Sac and Fox Indian Claims Agreement [P.L. 94-189];

(iii) from the disposition of funds to the Grand River Band of Ottawa Indians [P.L. 94-540];

(iv) by members of the Confederated Tribes of the Mescalero Reservation [P.L. 95-433]; or

(v) under the Maine Indian Claims Settlement Act of 1980 to members of the Passamaquoddy and the Penobscot Nation [P.L. 96-420];

(B) payments received by certain Indian tribal members under P.L. 94-114, Section 6 regarding submarginal land held in trust by the United States;

(C) Indian per capita payments distributed from judgment awards and trust funds made pursuant to P.L. 98-64. Exclude any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest or investment income accrued on such funds.

Exclude any per capita payments, headrights of Osage tribe, income from mineral leases, or other tribal business ventures, as long as the payments meet the distribution requirements as stated in this subparagraph.

(i) Any interest or income derived from the funds after distribution is considered as any other income.

(ii) The per capita exclusion applies per person rather than per family.

(iii) When these excluded funds are deposited in a bank or other financial institution, the deposits are excluded as long as the funds are kept in a separate account and not commingled in an account with non-excluded funds.

(iv) When the excluded funds are commingled in an account with non-excluded funds, the excluded funds retain their exemption for six months from the date of commingling. After six months from the date of commingling, all funds are counted as a resource.

(v) Purchases made with excluded funds are considered a resource;

(D) interests of individual Indians in trust or restricted lands;

(E) benefits received from Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) [P.L. 92-443, § 6];

(F) reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 [P.L. 91-646, § 216];

(G) Earned Income Tax Credit (EITC) payments received by a participating food benefit household member as part of a federal tax refund or as advance payments received as part of a paycheck, excluded for 12 months during continuous participation. This does not mean that households lose the exclusion if they temporarily leave the program for administrative reasons;

(H) refunds of the state EITC as a result of filing a state income tax return in the month received and the following month;

(I) payments received from the Youth Incentive Entitlement Pilot Projects, the Youth Community Conservation and Improvement Projects, and the Youth Employment and Training Programs under Title IV of the Comprehensive Employment and Training Act of 1978 [P.L. 95-524];

(J) financial assistance provided by a program funded in whole or in part under Title IV of the Higher Education Act in accordance with P.L. 99-498;

(K) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(L) payments received under the Civil Liberties Act of 1988. These payments are made to ~~individuals~~ persons of Japanese ancestry who were detained in internment camps during World War II;

(M) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from the exposure to radiation from nuclear testing and uranium mining;

(N) amounts held in an account for the fulfillment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act;

(O) the resources of any non-household member unless the ~~individual~~ person is disqualified from the program by an administrative or court fraud hearing, by failing to obtain or refusing to provide a Social Security number, or is an ineligible alien who would otherwise be a household member;

(P) payments or allowances made under any federal law for the purpose of energy assistance such as the Low Income Home Energy Assistance Program (LIHEAP);

(Q) earmarked resources, such as those governmental payments made by the Individual and Family Grant Program or the Small Business Administration which are designated for the restoration of homes damaged in a disaster and which are subject to a legal sanction if the funds are not used as intended. Resources such as those of self-employed persons, which have been prorated and counted as income, and Indian lands held jointly with the tribe or land that can be sold only with the approval of the Bureau of Indian Affairs are also exempt;

(R) the identified resources of all Temporary Assistance for Needy Families (TANF) and Supplemental Security Income (SSI) recipients when the household's total resources are calculated for food benefit eligibility purposes;

(S) excluded monies kept in a separate account, which are not commingled in an account with the non-excluded funds retain excluded status for an unlimited period of time.

(i) Monies of self-employed households that are excluded as a resource because they have been prorated over the period they are intended to cover and are commingled in an account with non-excluded funds retain their exclusion for the period of time over which they have been prorated as income.

(ii) All other excluded monies which are commingled in an account with other funds retain their exempt status for six months from the date they are commingled. When the household's total resources, including all funds in the commingled account, exceed the allowable limit after that time, all funds in the commingled account are considered as a resource;

(T) payments made to ~~individuals~~ persons because of their status as victims of Nazi persecution;

(U) any funds deposited in an Individual Development Account (IDA) operated under the Assets for Independence Act;

(V) monetary allowances as described in Section 1823(c) of Title 38 of the United States Code (U.S.C.) provided to certain ~~individuals~~ persons who are children of Vietnam War veterans; and

(W) Disaster Unemployment Assistance paid to ~~individuals~~ persons unemployed as the result of a major disaster.

(11) **Department of Housing and Urban Development (HUD) Family Self-sufficiency (FSS) Program escrow accounts.** Families participating in the HUD FSS program may withdraw money from their escrow accounts prior to completion of the program. This money is excluded both as income and as a resource.

(12) **Education accounts.** Funds in education accounts established under Sections 529 and 530 of the Internal Revenue Code and Section 4000 of Title 56 of the Oklahoma State Statutes are excluded.

340:50-7-3. Non-exempt resources

(a) Non-exempt resources are those resources which, after deducting any encumbrances, must be considered in the determination of eligibility to receive food ~~stamps~~ benefits. ~~The worker must include sufficient detail in the case record to permit verification in the event that it becomes necessary because of inconsistent information or for a quality control review.~~

(b) Non-exempt resources include, but are not limited to:

(1) ~~Liquid~~ liquid resources. Liquid resources ~~(~~must be verified~~).~~ and include:

(A) ~~Cash~~ cash on hand~~.~~;

(B) ~~Checking~~ checking or savings accounts~~.~~;

(C) ~~Savings~~ savings certificates~~.~~; or

(D) ~~Stocks~~ stocks or bonds~~.~~; or

~~(E) IRA's or Keogh plans that do not involve the household member in a contractual relationship with individuals who are not household members. The value counted is the cash value of the account less any penalty assessed if the entire amount was withdrawn.~~

(2) ~~Non-liquid~~ non-liquid resources ~~(verify.~~ Non-liquid resources are verified if questionable~~).~~and include:

~~(A) The value of these non-exempt resources, except for licensed vehicles, shall be the equity value. The equity value is the fair market value less encumbrances.~~

(~~i~~A) ~~Licensed~~ licensed and unlicensed vehicles~~.~~;

(~~ii~~B) ~~Boats.~~ boats;

(~~iii~~C) ~~Land.~~ land;

(~~iv~~D) ~~Recreational~~ recreational property~~.~~;

(~~v~~E) ~~Mobile~~ mobile homes other than home property~~.~~;

(~~vi~~F) ~~Vacation~~ vacation home~~.~~ property; or

(~~vii~~G) ~~Other~~ other property not specifically excluded.

(c) The value of non-exempt resources, except for licensed vehicles, is the equity value. The equity value is the fair market value less encumbrances.

(~~B~~d) Exclude the entire value of non-liquid assets used as collateral for a business loan if the household is prohibited by the loan agreement from selling the asset.

340:50-7-5. Transfer of resources

Households which have knowingly transferred resources for the purpose of qualifying or attempting to qualify for food ~~stamps~~ benefits are disqualified from participating in the program for up to one year from the date of discovery. The disqualification period applies if the resources are transferred three months prior to application or transferred after the household is determined eligible. At the time of application, the worker asks the household to provide information regarding any resources which have been transferred, within the three month period immediately preceding the date of application, by any household member, ~~(or~~ ineligible alien, or disqualified member whose resources are being considered available~~) within the three month period immediately preceding the date of application~~.

(1) Transfers of property which do not otherwise affect eligibility~~, for example,~~ do not result in disqualification. Examples include:

(A) personal property such as furniture or property which is sold or traded at or near the fair market value~~, will not result in disqualification. Property~~;

(B) property transferred between members of the same household, ~~(~~including ineligible aliens or disqualified members whose resources are being considered available~~)~~; and

(C) property which is transferred for reasons other than to qualify for food ~~stamps~~ benefits ~~will also not result in disqualification~~.

(2) For applicants, the period of disqualification begins in the month of application. The length of the disqualification period is based on the amount of transferred resources which, when added to the other accountable resources, exceeded the allowable limits. The following chart is used to determine the period of disqualification:

Amount in excess of the resource limit	Period of disqualification
$ 0 – 249	One Month
250 – 999	Three Months
1000 – 2999	Six Months
3000 – 4999	Nine Months
5000 – and up	Twelve Months

PART 3. INCOME

340:50-7-22. Income exclusions

Only the payments listed in this Section are excluded from the household's income, from income of disqualified members whose income is counted, or from the income of ineligible aliens who would otherwise be household members. No other income is excluded.

(1) **In-kind income.** In-kind income is any gain or benefit which is not in the form of money payable directly to the household, including non-monetary or in-kind benefits, such as meals, clothing, public housing, or produce from a garden.

(2) **Vendor payments.** Vendor payments are payments in money on behalf of a household when a person or organization outside the household uses its own funds to make a direct payment to either a household's creditors or a person or organization providing a service to the household.

(3) **Education assistance.** All education grants, work-study, scholarships, and student loans are exempt if receipt is contingent upon the student regularly attending school.

(4) **Family Support Assistance Payment Program.** Family Support Assistance Payment Program payments provided by Developmental Disabilities Services Division (DDSD) are excluded.

(5) **Income excluded by law.** Income excluded by law is:

(A) reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. [Public Law (P.L.) 91-646, § 216] Such payments are:

(i) payments to persons displaced due to the acquisition of real property;

(ii) relocation payments to a displaced home owner toward the purchase of a replacement dwelling if the owner purchased and occupied the dwelling within one year following displacement; and

(iii) replacement housing payments to displaced persons not eligible for a home owner's payment;

(B) payments received:

(i) under the Alaska Native Claims Settlement Act [P.L. 92-203 § 21(a)];

(ii) under the Sac and Fox Indian Claims Agreement [P.L. 94-189];

(iii) from the disposition of funds to the Grand River Band of Ottawa Indians [P.L. 94-540];

(iv) by members of the Confederated Tribes of the Mescalero Reservation [P.L. 95-433]; or

(v) under the Maine Indian Claims Settlement Act of 1980 to members of the Passamaquoddy and the Penobscot Nation [P.L. 96-420];

(C) any payment to volunteers under Title II, Retired and Senior Volunteer Program (RSVP), foster grandparents and others, of the Domestic Volunteer Services Act of 1973 [P.L. 93-113] as amended;

(D) income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes [P.L. 94-114, § 6];

(E) Indian per capita payments distributed from judgment awards and trust funds made pursuant to P.L. 98-64. Also excluded is any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds. Any per capita payments, headrights of the Osage tribe, income from mineral leases or other tribal business ventures are excluded, as long as they meet the distribution requirements as stated in this paragraph. Any interest or income derived from the funds after distribution is considered as any other income. The per capita exclusion applies per person rather than per family.

(i) Excluded funds deposited in a bank or other financial institution are excluded as long as they are kept in a separate account and not commingled in an account with non-excluded funds. When the excluded funds are commingled in an account with non-excluded funds they retain their exemption for six months from the date of commingling. After six months from the date of commingling, all funds are counted as a resource.

(ii) Purchases made with excluded funds are considered a resource;

(F) income up to $2,000 per year received by individual Indians, which is derived from leases or other uses of individually-owned trust or restricted lands. The income exclusion applies to calendar years beginning January 1, 1994. Any remaining disbursements from the trust or restricted lands are considered as income;

(G) allowances, earnings, and payments made for participation in the Workforce Investment Act (WIA) to ~~individuals~~ persons of all ages and student status. There are numerous programs for which payments are excluded. These programs include Summer Youth, Job Corps, paid classroom training, and others. The exception to the income exclusion is income to ~~individuals~~ persons for on-the-job training paid to participants 19 years old and older. This income is treated as any other earned income;

(H) payments, allowances, or earnings to ~~individuals~~ persons participating in programs under Title I of the National and Community Service Act, such as University Year for Action (UYA), Senior Companion Program, AmeriCorps Volunteers in Service to America (VISTA) and other AmeriCorps Programs, are not included as income for purposes of determining food benefit eligibility and benefit level;

(I) payments or allowances made under any federal law for the purpose of energy assistance, Low Income Home Energy Assistance Program (LIHEAP) and utility payments, and reimbursements made by

the Department of Housing and Urban Development (HUD) and the Farmers Home Administration (FmHA);

(J) the amount of the mandatory salary reduction of military service personnel used to fund the G.I. Bill;

(K) all funds that are paid to ~~individuals~~ persons under the Community Service Employment Program under Title V, P.L. 100-175. This program is authorized by the Older Americans Act. Each state and various organizations receive some Title V funds. These organizations include:

(i) Experience Works;

(ii) National Council on Aging;

(iii) National Council of Senior Citizens;

(iv) American Association of Retired Persons (AARP);

(v) U. S. Forest Service;

(vi) National Association for Spanish Speaking Elderly;

(vii) National Urban League;

(viii) National Council on Black Aging; and

(ix) National Council on Indian Aging;

(L) Earned Income Tax Credit (EITC) payments received as part of a tax refund and also EITC advance payments received as part of a paycheck [P.L. 100-435];

(M) refunds of the state EITC as result of filing a state income tax return;

(N) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(O) payments received under the Civil Liberties Act of 1988. These payments are made to ~~individuals~~ persons of Japanese ancestry who were detained in interment camps during World War II;

(P) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from the exposure to radiation from nuclear testing and uranium mining;

(Q) payments for the fulfillment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act;

(R) payments made to ~~individuals~~ persons because of their status as victims of Nazi persecution;

(S) funds distributed by Federal Emergency Management Assistance (FEMA) due to a disaster or emergency to ~~individuals~~ persons directly affected by the event. This exclusion also applies to comparable disaster assistance provided by states, local governments, and disaster assistance organizations. For payments to be excluded, the disaster or emergency must be declared by the President of the United States;

(T) monetary allowances as described in Section 1823(c) of Title 38 of the United States Code (U.S.C.) provided to certain ~~individuals~~ persons who are children of Vietnam War veterans; and

(U) Disaster Unemployment Assistance paid to ~~individuals~~ persons unemployed as a result of a major disaster.

(6) **Payments which are not considered income.**

(A) The payments in (i) through (iii) are not considered as income.

(i) Monies withheld from any income source to repay a prior overpayment from that same source.

(ii) Monies voluntarily or involuntarily returned to repay a prior overpayment received from that same income source.

(iii) Child support payments received by Temporary Assistance for Needy Families (TANF) recipients which must be sent to the Oklahoma Child Support ~~Enforcement Division~~ Services (OCSS) to maintain TANF eligibility.

(B) Monies withheld or returned to repay overpayments in federal, state, or local means-tested assistance programs are counted when they are withheld or returned to repay overpayments resulting from intentional program violation as established by the agency administering the program.

(i) In the ~~Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP), willful misrepresentation is considered as intentional program violation.

(ii) The State Supplemental Payment to the Aged, Blind, and Disabled and TANF programs define intentional program violation using the terms restitution, fraud, and willful misrepresentation.

(iii) The Social Security Administration (SSA) and Veterans Benefits Administration programs define intentional program violation as fraud. Supplemental Security Income (SSI) is a means-tested program within SSA.

(7) **Reimbursements.**

(A) Reimbursements for past or future expenses to the extent they do not exceed actual expenses and do not represent a gain or benefit to the household are not considered. Examples are reimbursements for:

(i) job or training related expenses such as travel, per diem, uniforms, and transportation to and from job or training site. However, if these expenses are not reimbursements, they are considered income;

(ii) out-of-pocket expenses incurred by volunteers in the course of their work;

(iii) medical or dependent care; and

(iv) services provided by Title XX of the Social Security Act.

(B) When a reimbursement, including a flat allowance, covers multiple expenses, each expense does not have to be separately identified as long as none of the reimbursement covers normal living

expenses. The amount of the reimbursement that exceeds the actual incurred expenses is counted as income. A reimbursement is not considered to exceed actual expenses unless the provider or household indicates the amount is excessive.

(8) **Money received for third parties.** Money received and used for the care and maintenance of a third party beneficiary who is not a household member is not considered.

(A) If the intended beneficiaries of a single payment are both household and non-household members, any identifiable portion of the payment intended and used for the care and maintenance of the non-household member is excluded.

(B) If the non-household member's portion cannot be readily identified, as in TANF payments, the payment is evenly prorated among intended beneficiaries. The exclusion is applied to the non-household member's pro rata share or the amount actually used for the non-household member's care and maintenance, whichever is less.

(9) **Earnings of a child.** Earned income of a child who is head of his or her own household is counted. The earned income of an elementary or high school student 17 years of age or younger who is under parental control of an adult household member is excluded. This exclusion continues to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment will resume following the break. If the child's earnings cannot be differentiated from those of other household members, the total earnings are prorated equally among the working members, and the child's prorated share is excluded.

(10) **Other types of excluded income.**

(A) **Loans.** All loans, including loans from private as well as commercial institutions, are excluded. Verification that the income is a loan is required.

(B) **Irregular Income.** Exclude any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated which is $30 or less per quarter.

(C) **Non-recurring lump sum payments.** Exclude money received in the form of non-recurring lump sum payments, including but not limited to: income tax refunds, rebates, credits, retroactive lump sums from SSA, SSI, public assistance, Railroad Retirement pensions, or other payments, or retroactive lump sum insurance settlements. These payments are counted as resources.

(D) **Cost of self-employment.** Exclude the cost of producing self-employment income.

(E) **Income of non-household members.** The income of non-household members who have not been disqualified or are not ineligible aliens is not considered available to the household.

(F) **Charitable contributions.** Exclude cash contributions to a household from one or more private non-profit charitable organizations, not to exceed $300 in a federal fiscal year quarter. For the purposes of this provision a quarter includes these specific months:

(i) October, November, December;
(ii) January, February, March;
(iii) April, May, June; and
(iv) July, August, September.

(G) **Department of Housing and Urban Development's (HUD) Family Self-sufficiency Program (FSS) escrow accounts.** Families participating in the HUD FSS program may withdraw money from their escrow accounts prior to completion of the program. This money is excluded both as income and as a resource.

(H) **Individual Development Account (IDA).** Any funds deposited in an IDA operated under the Assets for Independence Act and the interest that accrues.

340:50-7-29. Income inclusions

(a) **Earned income.** Earned income is income which a household receives in the form of wages, self-employment, or training allowances and for which ~~an individual~~ a person puts forth daily, physical labor. The types of earnings listed in (1) through (~~5~~4) of this subsection, including money from the sale of whole blood or blood plasma, are considered earned income.

(1) **Wages.** All wages and salaries for services performed as an employee, including sick pay paid by the employer to an employee who plans to return to work when recovered, are considered as earned income. Wages that are garnisheed or diverted and paid to a third party for a household's expenses are also included.

(2) **Self-employment.** The total gross income from a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business, but excluding the cost of producing the income and payments from roomers or boarders and rent from rental property are considered self-employment income. Income from rental property is considered earned income only if a member of the household is actively engaged in management of the property an average of at least 20 hours per week.

(3) **Title I payments of the Domestic Volunteer Services Act.** Payments under Title I of the Domestic Volunteer Services Act of 1973 as amended [Public Law (P.L.) 93-113] are considered as income unless excluded in OAC 340:50-7-22.

(4) **On-the-job training.** Income earned in on-the-job training positions is considered earned income. This includes on-the-job training provided under Section 204(b)(1)(c) or Section 264(c)(1)(A) of the Workforce Investment Act for ~~individuals~~ persons 19 years of age or older.

(b) **Unearned income.** In general, unearned income is that income which a household receives and is not in the form of wages, self-employment, or training allowances and for which ~~an individual~~ a person does not put forth any daily, physical

labor. The types of income listed in (1) through (~~6~~5) of this subsection, while not all inclusive, are considered unearned.

(1) **Assistance payments.** Assistance payments from a federally aided public assistance program, such as Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), or assistance programs based on need, such as State Supplemental Payments are considered as unearned income.

(A) A household's food ~~stamp~~ benefit amount does not increase when the benefit received from another program is reduced, suspended, or terminated because of a penalty imposed for an intentional failure to comply with a requirement of that program. The other program must be a means-tested, federal, state, or local welfare or public assistance program which is governed by welfare or public assistance laws or regulations and which distributes public funds, such as, SSI and TANF. Policy at OAC 340:10-2-2 explains the TANF penalty considered for SNAP.

(i) When a worker is not able to obtain the necessary information and cooperation from another federal, state, or local means-tested welfare, or public assistance program to comply with the provision in (A) of this paragraph, Oklahoma Department of Human Services (OKDHS) is not held responsible. The worker must make a good faith effort to get the needed information and record the details and results of this effort in the case file.

(ii) The household's current food ~~stamp~~ benefit amount is not reduced, suspended, or terminated when the benefits under another assistance program are decreased.

(iii) When eligible members are added to the food ~~stamp case~~ benefit, the benefit must be adjusted regardless of whether the household is prohibited from receiving benefits for the additional member under another federal, state, or local welfare or public assistance means-tested program.

(iv) Changes in the household circumstances which are not related to the penalty imposed by another federal, state, or local welfare or public means-tested assistance program are not affected by the provision in (A) of this paragraph.

(v) The application of the provision in (A) of this paragraph applies for the duration of the imposed penalty.

(B) The provision in (A) of this paragraph does not apply to ~~individuals~~ persons or households subject to disqualification from ~~the Food Stamp Program~~ SNAP for noncompliance with a comparable work requirement under Title IV of the Social Security Act or an unemployment compensation work requirement.

(2) **Pension and Social Security.** Annuities, pensions, retirement, veterans' or disability benefits, workers' or unemployment compensation, survivors' or Social Security benefits, and strike benefits are unearned income.

(3) **Support and alimony.** Support and alimony payments that are made directly to the household from non-household members, money deducted or diverted from court-ordered support or alimony payments, or other binding written support or alimony agreement, to a third party for a household expense must be considered as income when the court order directs that the payment be made to the household.

(4) **Grants and interest payments.** Payments from government sponsored programs, such as Agricultural Stabilization and Conservation Service Programs, dividends, interest, royalties, and all other direct money payments from any source which can be construed to be a gain or profit are considered as income. Income from royalties is treated as unearned~~, self-employment~~ income.

(5) **Monies which are withdrawn or dividends which are or could be received by a household from trust funds.** Dividends which the household has the option of either receiving as income or reinvesting in the trust are considered as income in the month they become available to the household.

(c) **Income of disqualified or ineligible household members.** A complete list of reasons for disqualification of household members is found in OAC 340:50-5-10.1. Income of disqualified ~~individuals~~ persons and unqualified aliens is counted as indicated in paragraphs (1) and (2) of this subsection.

(1) **Income of ~~an individual~~ a person disqualified for failure to comply with food ~~stamp employment~~ benefit Employment and ~~training~~ Training (E&T) Program requirements or willful misrepresentation, fraud.** All income of ~~an individual~~ a person disqualified for failure to comply with food ~~stamp employment and training~~ benefit E&T requirements or willful misrepresentation, fraud, is counted as available to the remaining household members. Utility, medical, dependent care, and excess shelter deductions continue to apply to the remaining household members.

(2) **Income of ~~individuals~~ persons disqualified for reasons other than willful misrepresentation or failure to comply with ~~employment and training~~ E&T requirements.** Income of ~~individuals~~ persons disqualified for reasons other than those stated in paragraph (1) of this subsection is prorated among all household members.

(A) A pro rata share of the income of a disqualified ~~individual~~ person is considered as income available to the remaining members. This pro rata share is calculated by first subtracting the allowable exclusions from the disqualified member's income and dividing the income evenly among the household members, including the disqualified member.

(B) All but the disqualified member's share is considered as income available to the remaining household members. The earned income deduction from OKDHS Appendix C-3, Maximum ~~Coupon~~ Food Benefit Allotments and Standards for Income and Deductions~~, Maximum Income and Utilities (Food Stamps)~~ applies to the prorated income attributed to the household if it was earned by the disqualified member.

(C) That portion of the household's allowable shelter and dependent care expenses which are either paid by or billed to the disqualified member is divided evenly among the household members, including the disqualified member. When the household is using the utility standard, it too is evenly prorated. All but the disqualified member's share is considered as a deductible shelter expense for the remaining household members.

(3) **Determining eligibility and benefit level.** The needs of a disqualified or ineligible household member are not considered when determining the household's size for purposes of assigning a benefit level to the household or for purposes of comparing the household's monthly income with the income eligibility standard.

340:50-7-30. Self-employed households

Households whose income is derived either wholly or in part from a self-employment enterprise are treated in accordance with the procedures listed in paragraphs (1) through (~~9~~10) ~~of this Section~~.

(1) **Capital gains.** The proceeds from the sale of capital goods or equipment is income for program purposes and is calculated in the same manner as a capital gain for federal income tax purposes. Even though a percentage of the proceeds from the sale of capital goods or equipment is taxed for federal income tax purposes, the worker counts the full amount of capital gain as income.

(2) **Profit sharing.** Households who operate S corporations, general or limited partnerships, or limited liability companies may receive profit sharing that is reported on the household's personal income tax return. When a household member:

(A) actively participates in the operations, the income from profit sharing is considered part of the household's self-employed earned income; or

(B) does not actively participate in the operations, the income from profit sharing is considered part of the household's unearned income.

(3) **Self-employed farm income.** To be considered a self-employed farmer, the farmer must receive or anticipate receiving annual gross proceeds of $1,000 or more from the farming enterprise.

(A) Farming is defined as cultivating or operating a farm for profit either as owner or tenant.

(B) A farm includes stock, dairy, poultry, fish, fruit, and truck farms, and plantations, ranches, ranges, and orchards.

(i) A fish farm is an area where fish are grown or raised and where they are artificially fed, protected, and cared for, and does not include an area where they are only caught or harvested.

(ii) A plant nursery is a farm for purposes of this definition.

(4) **Monthly self-employment income.** Self-employment income received on a monthly basis but which represents a household's annual support is normally averaged over a 12-month period. If the averaged amount does not accurately reflect the household's actual monthly circumstances because the household has experienced a substantial increase or decrease in business, the worker calculates the self-employment income based on anticipated earnings.

(5) **Seasonal self-employment income.** Self-employment income intended to meet the household's needs for only part of the year is averaged over the period of time it is intended to cover. For example, the income of self-employed vendors who work only in the summer and supplement their income from other sources during the balance of the year is averaged over the summer months rather than a 12-month period.

(6) **Annualized self-employment income.** Self-employment income which represents a household's annual support must be annualized over a 12-month period, even if the income is received in a shorter period of time. For example, self-employment income received by crop farmers must be averaged over a 12-month period if the income represents the farmer's annual support.

(A) If the averaged annualized amount does not accurately reflect the household's actual circumstances because the household has experienced substantial increase or decrease in business, the worker calculates the self-employment income on anticipated earnings.

(B) The worker does not calculate self-employment income on the basis of prior earnings such as income tax returns when an increase or decrease of business has occurred.

(i) If the household's self-employment enterprise has been in existence for less than a year, the income from that self-employment enterprise must be averaged over the period of time the business has been in operation and the monthly amount projected for the coming year.

(ii) If the business has been in operation for a short time and there is insufficient data to make a reasonable projection, self-employment income is recomputed at each new certification until a full year's information is available.

(7) **Anticipated income.** When a household who would normally have the self-employment income annualized experiences a substantial increase or decrease in business, the worker calculates the self-employment income based on anticipated earnings.

(A) For those households whose self-employment income is calculated on an anticipated basis, the worker adds any capital gains the household anticipates it will receive in the next 12 months, starting with the date the application is filed, and divides this amount by 12. This amount is used in successive certification periods during the next 12 months except that a new average monthly amount must be calculated over this 12-month period if the anticipated amount of capital gain changes.

(B) The worker adds the anticipated monthly amount of capital gains to the anticipated monthly

self-employment income, and subtracts the cost of producing the self-employment income.

(8) **Determining net monthly self-employment income.** When the household has business expenses associated with its self-employment income, the business expenses must be deducted before determining whether the household meets the maximum gross income standards shown on Oklahoma Department of Human Services (OKDHS) Appendix ~~08AX003E~~ C-3, Maximum Food ~~Stamp~~ Benefit Allotments and Standards for Income and Deductions~~, Maximum Income, and Utilities~~. When the household does not have business expenses, the gross self-employment income is used.

(A) When the household has filed an income tax return on its self-employment income for the most recent year, the worker uses the net self-employment ~~incomes hown~~ income shown on the income tax return and divides the net self- employment income by the number of months to be averaged.

(B) When the household did not file an income tax return on its self-employment income for the most recent year, the worker uses (i) through (iii) to determine the net monthly self-employment income.

(i) The gross self-employment income, including capital gains, is computed using the client's self-employment business records.

(ii) If the client declares they incurred business expenses, the worker then subtracts 50% of the gross self-employment income as business expenses. If the household did not incur business expenses, a business expense deduction is not given.

(iii) The worker then divides the net self-employment income by the number of months to be averaged.

(C) The monthly net self-employment income is added to all other earned income received by the household.

(i) The total monthly earned income less the earned income deduction according to OKDHS Appendix ~~08AX003E~~ C-3 is then added to all other monthly income received by the household.

(ii) The standard deduction, dependent care, and shelter costs are computed as for any other household and subtracted to determine the monthly net income of the household.

(9) **Household with income from boarders.** A household that operates a commercial boarding house may be considered a food benefit household and self-employed as shown in paragraph (8) of this subsection. A household with boarders or roomers that is not a commercial boarding house may receive food benefits as shown in subparagraphs (A) through (C) of this paragraph.

(A) A person paying a reasonable amount for room and board is excluded from the household when determining the household's eligibility and benefit level. Payments from the boarder are treated as self-employment income if the boarder is paying a reasonable amount.

(i) The income from a boarder includes all direct payments to the household for room and meals, including contributions to the household for part of the household shelter expense.

(ii) Shelter expenses paid directly by a boarder to someone outside the household are not counted as income to the household.

(B) After determining the income received from the boarder, the worker excludes 50% of the boarder payment as the cost of doing business.

(C) The net income from self-employment is included with other earned income and the earned income deduction from OKDHS Appendix ~~08AX003E~~ C-3 is taken.

(i) Shelter cost the household actually incurred, even if the boarder contributes to the household for part of the household's shelter expense, is computed to determine if the household will receive a shelter deduction.

(ii) The shelter and utility cost must not include any expense billed to and directly paid by the boarder to a third party.

(10) **Income from rental property.** Income received from rental property is considered earned income if a member of the household is actively engaged in the management of the property an average of at least 20 hours per week.

340:50-7-31. Deductions

(a) Deductible expenses from income include only certain costs of dependent care, shelter, the earned income allowance, a standard deduction, certain medical costs for elderly or disabled household members, and legally binding child support payments as described in this Subchapter.

(1) That portion of the household's allowable shelter, utility, and dependent care expenses, which are either paid by or billed to a disqualified household member, as defined by OAC 340:50-7-29(c)(2), is divided evenly among the household members, including the disqualified member. All except the disqualified member's share is considered as a deductible shelter expense for the remaining household members.

~~(2) When the household is using the utility standard, it is also evenly prorated.~~

(~~3~~2) Business expenses for the self-employed are handled in accordance with OAC 340:50-7-30.

(b) Deductions from income are allowed for the expenses listed in paragraphs (1) through (6) of this subsection.

(1) **Standard deduction.** The appropriate standard deduction as shown in Oklahoma Department of Human Services (OKDHS) Appendix C-3, Maximum Food ~~Stamp~~ Benefits Allotments and Standards for Income and Deductions~~, Maximum Income and Utilities~~, is deducted from the household's income.

(2) **Earned income deduction.** The appropriate amount of earned income deduction from OKDHS Appendix C-3 is deducted from the gross earned income to cover the cost of state and local income taxes, pensions, union dues, and work related expenses. The earned income deduction is not allowed on any portion of income earned under a work supplementation or support program that is attributable to public assistance. No other deduction is allowed from the gross earned income.

(3) **Medical expense deduction.** Medical expenses exceeding $35 per month incurred by any elderly or disabled household members are deductible. The $35 is subtracted from medical expenses only once per household even though the household has more than one elderly or disabled member. When the household does not know the amount of on-going medical expenses that can be anticipated monthly over the certification period, the anticipated expense amount may be determined by averaging at least the past two month's expenses.

(A) Households report and verify medical expenses at certification and each recertification. Households are not required to report changes in medical expenses during the certification period.

(i) When a household voluntarily reports a change in medical expenses that will reduce the food ~~stamp~~ benefit allotment, no verification is needed. However, the change does require notice of adverse action.

(ii) When a household voluntarily reports a change in medical expenses that will increase the food ~~stamp~~ benefit allotment, the change must be verified before the change is made.

(iii) If OKDHS finds out about a change from a source other than the household, the change is acted on if it is considered verified upon receipt. The household is not contacted for additional information. When the change requires contacting the household for additional information or verification, no change is made.

(B) If a household reports an anticipated medical expense at the time of certification, but is unable to provide the verification at that time, the household is told the expense will be allowed when the verification is provided during the certification period. Upon verification, a household may elect to have a one-time medical deduction or have the expense averaged over the remaining months of the certification period. Allowable costs are:

(i) medical and dental care, including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by state law or other qualified health professional;

(ii) hospitalization or outpatient treatment, nursing care, and nursing home care, including payments by the household for ~~an individual~~ a person who was a household member immediately prior to entering a hospital or nursing home provided by a facility recognized by the state;

(iii) prescription drugs and other over-the-counter medication, including insulin, when approved by a licensed practitioner or other qualified health professional. Costs of medical supplies, sick-room equipment, including rentals, or other prescribed equipment are also included;

(iv) health and hospitalization policy premiums;

(v) Medicare premiums, and any cost-sharing or spend-down expenses incurred by Medicare or SoonerCare (Medicaid) recipients;

(vi) dentures, hearing aids, and prosthetics;

(vii) eye glasses prescribed by a licensed practitioner, and securing and maintaining a seeing eye or hearing dog, including the cost of dog food and veterinarian bills;

(viii) reasonable cost of transportation and lodging to obtain medical treatment or services; and

(ix) maintaining an attendant, homemaker, home health aide, child care services, or housekeeper due to age, infirmity, or illness. If this expense also qualifies as a dependent care expense as described in paragraph (4) of this subsection, it is considered as a medical expense rather than a dependent care expense. Additionally, if the household furnishes a majority of the caretaker's meals, an amount equal to one allotment is added to the medical expense for meals provided. The allotment used is the amount in effect at certification.

(C) Cost for special diets or health and accident insurance policies such as those payable in lump sum settlements for death or dismemberment, or income maintenance policies such as those that continue mortgage or loan payments while the beneficiary is disabled are **not** allowable medical costs. ~~The worker must verify the amount of any deductible medical expenses. Verification of other factors, such as the allowability of services provided or the eligibility of the person incurring the cost, is required only if questionable.~~

(4) **Dependent care.** Dependent care is payment for the actual cost for the care of a child or other dependent when necessary for a household member to seek, accept, or continue employment or to attend training or education preparatory to employment. This deduction is applicable whether or not the household member is subject to the ~~Food Stamp~~ Supplemental Nutrition Assistance Program Employment and Training requirements. If this expense also qualifies as a medical expense, it is considered as a medical expense rather than a dependent care expense. See OKDHS Appendix C-3 for the maximum dependent care deduction allowable. Dependent care is only verified when the expenses claimed would actually result in a deduction and other information available to the worker is inconsistent with the household's claim that it incurs a dependent care expense or that the household incurs the

expense for reasons of employment, seeking employment or training, or education for employment.

(5) **Legally-binding child support.** A deduction is allowed for verified legally-binding child support payments paid by a household member to or for a non-household member, including payments made to a third party on behalf of the non-household member.

(6) **Shelter costs.** A household is allowed a shelter deduction ~~is made for~~ when the monthly shelter cost is in excess of 50% of the household's income after all ~~of the~~ other deductions are allowed. The shelter deduction alone cannot exceed the maximum amount as shown in OKDHS Appendix C-3, unless the household has an elderly or disabled member. Households with an elderly or disabled member receive an excess shelter deduction for the monthly cost that exceeds 50% of the household's income after all of the deductions listed in paragraphs (1) through (6) of this subsection have been allowed. All homeless households who incur or can expect to incur a shelter cost during the month are entitled to use the estimated homeless shelter deduction to determine food ~~stamp~~ benefit eligibility and benefit level. This estimate covers all shelter costs as described in this paragraph. If a homeless household is living in a vehicle for which they are making payments, the monthly payment may be allowed as a shelter cost. If the household's actual verified shelter cost exceeds the estimated amount, the larger amount is used. Shelter costs include only:

(A) continuing charges for the shelter occupied by the household, including rent, mortgage, or other continuing charges leading to the ownership of the shelter, such as loan repayments for the purchase of a mobile home, including interest on such payments. The charge for renting or buying the land on which a mobile home is located is also considered shelter cost;

(B) property taxes, state and local assessments, and insurance on the structure itself except the separate costs for insuring furniture or personal belongings.

(i) The cost of vehicle registration or tag for a mobile or motor home is not a shelter expense.

(ii) A mobile home is taxed as part of the property tax when the land is owned or being purchased. This is considered as a shelter expense.

(iii) Unregistered mobile homes on rented land are taxed as personal property. The personal property tax for the mobile home is considered a shelter expense. No other personal property tax is considered a shelter expense;

(C) charges for heating, cooling, or cooking fuel; electricity; water, sewage, garbage, and trash collection fees; and the basic service fee for one telephone including tax on the basic fee. A household that incurs an allowable utility expense receives the total amount of the utility standard specified in OKDHS Appendix C-3 for one of the mandatory utility standards in (i) through (iii) of this subparagraph.

(i) The standard utility allowance (SUA) is a single standard based on annual averages that include costs for heating, cooling, and cooking fuel; electricity; basic telephone service; and water, sewage, and garbage.

(I) The SUA may be used as long as the household is billed for heating or cooling during the year. Households billed less often than monthly for heating costs such as butane or propane may continue to use the utility standard between billing months. ~~The worker must assess the household's eligibility for the SUA at each application, reapplication, and when the household moves.~~ If the household reports they no longer incur a heating or cooling expense, but still have a utility expense, the standard must be changed to either the basic utility allowance (BUA) or telephone standard.

(II) A household with utility expenses which are reimbursed or paid by an excluded payment such as a vendor payment, Housing and Urban Development (HUD) or Farmers Home Administration (FmHA) payment may use the SUA when the heating or cooling cost exceeds the amount of the excluded payment.

(ii) The BUA includes utility charges other than for heating and/or cooling which the household incurs.

(iii) The telephone standard is used if the household is not entitled to use the SUA or BUA but has a telephone cost; and

(D) the shelter costs for the home even when not actually occupied by the household because of employment or training away from home, illness, or abandonment of the home due to disaster or casualty loss.

(i) For the cost of a vacated home to be included in shelter costs~~,~~ the:

(I) ~~the~~ household must intend to return to the home~~. The~~;

(II) current occupants of the home, if any, must not be claiming the shelter costs during the absence of the household; and

(III) ~~the~~ home must not be rented or leased during the absence of the household.

(ii) If a deductible expense must be verified and obtaining the verification may delay the household's certification, the worker advises the household that the household's eligibility and benefit level may be determined without providing a deduction for the claimed but unverified expense.

(iii) The appropriate utility standard is used if the household is entitled to claim it.

(c) The worker calculates a household's expenses based on the expenses the household expects to be billed for during the certification period. Anticipation for the expenses is based on the most recent month's bills unless the household is reasonably certain a change will occur.

(d) Households may elect to have an expense that:

(1) is billed monthly and fluctuates, averaged;

(2) is billed less often than monthly, averaged forward over the interval between scheduled billings; or

(3) if there is no scheduled billing interval, averaged forward over the period the expense is intended to cover.

(e) A deduction is allowed in the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay the expense.

(1) For example, rent which is due each month is included in the household's shelter costs, even if the household has not yet paid the expense.

(2) Amounts carried forward from past billing periods are not deductible even if included in the most recent billing and actually paid by the household.

(3) A particular expense may only be deducted once.

(f) The portion of an expense paid by an excluded reimbursement or vendor payment is not deductible. The amount left after deducting the excluded payment is deductible. This includes HUD and FmHA rent and utility payments. Expenses are only deductible if the service is provided by someone outside the household and the household makes a money payment for the service.

SUBCHAPTER 9. ELIGIBILITY AND BENEFIT DETERMINATION PROCEDURES

340:50-9-1. Determining the food benefit allotment

(a) **Cases with unverified deductible expenses.**

(1) **Food benefits without deductions.** If a deductible expense which must be verified in accordance with OAC 340:50-7-31 cannot be verified before the 30-day processing standard for applications expires, the worker determines the household's benefit level without giving a deduction for the claimed but unverified expense. If the household:

(A) is eligible without allowing the expense, an allotment which does not reflect deduction of the expense is provided within 30 calendar days after the application is filed; or

(B) chooses to claim expenses for an unoccupied home, the worker verifies the household's utility expenses for the unoccupied home and uses the appropriate utility standard.

(2) **Benefits delayed.** If a deductible expense cannot be verified before the 30-day processing standard for applications expires and the household is ineligible unless the expense is allowed, the household application is held pending or denied.

(b) **Determining household eligibility.** In calculating net monthly income, cents are used in determining each source of each person's monthly income and the household's monthly dependent care, shelter, legally binding child support payments, or medical expense. When the monthly amount of each person's source of income or each of the household's expenses is established, and at all other steps of the net income computation, cents are rounded to the nearest dollar, 1 cent through 49 cents is rounded down and 50 cents through 99 cents is rounded up. ~~For example an person's weekly earnings of $99.90 are multiplied by the number of checks that will be received in a month's time and the cents rounded to the nearest dollar, $99.90 x 4.3 = $429.57 rounded to $430.~~ Due to changes in household composition or circumstances, households certified under gross income standards may become subject to net income standards during the certification period or vice versa. The worker is required to change the one income standard to the other when any change is made ~~in the case~~ to adjust the household's eligibility, benefit level, or certification period, or at recertification, whichever is earlier.

(1) **Households without elderly or disabled members.** If the household does not have an elderly or disabled member, the household's total gross monthly income and household size are the first basis for determining eligibility. The household is not eligible if the total gross income exceeds the Maximum Gross Income Standard for the appropriate household size as shown on Oklahoma Department of Human Services (OKDHS) Appendix ~~08AX003E~~ C-3, Maximum Food ~~Stamp~~ Benefit Allotments and Standards for Income and Deductions~~, Maximum Income, and Utilities (Food Stamps)~~. After gross income, resource, and non-financial conditions of eligibility are established, the net food benefit monthly income is computed and compared to the Maximum Net Income Standard for the appropriate household size as shown on OKDHS Appendix ~~08AX003E~~ C-3. If the net food benefit income does not exceed this standard, the household is determined eligible. ~~The steps in (A) through (H) of this paragraph are used to determine the household's net food benefit monthly income if the household does not include an elderly or disabled member.~~

~~(A) Add gross monthly income earned by all household members including any net self employment income minus the earned income exclusions to determine the household's total gross earned income.~~

~~(B) Multiply the total gross earned income by the appropriate earned income deduction according to OKDHS Appendix 08AX003E and subtract that amount to determine the net monthly income. The earned income deduction is not allowed on any portion of income earned under a work supplementation or support program that is attributable to public assistance.~~

~~(C) Add the net monthly earned income and the total monthly unearned income of all household members, minus income exclusions.~~

~~(D) Subtract the standard deduction as shown in OKDHS Appendix 08AX003E.~~

~~(E) Subtract monthly dependent care expenses, if any, up to the maximum amount allowed as shown in OKDHS Appendix 08AX003E. A dependent care deduction cannot be allowed for dependent care expenses which are reimbursed or paid for under an Employment and Training Program or other source.~~

~~(F) Subtract verified legally binding child support payments made to someone outside the food stamp household.~~

~~(G) Add the allowable shelter expenses to determine the total shelter costs. Subtract from the total shelter costs 50% of the adjusted income, the household's monthly income after all of the deductions given in subparagraphs (A) through (F) of this paragraph have been subtracted. The remaining amount, if any, is the excess shelter costs. If there are no excess shelter costs, the net monthly income has been determined. If there are excess shelter costs, go to the next step.~~

~~(H) To apply the excess shelter costs, subtract excess shelter costs from the adjusted income if the total of excess shelter costs does not exceed the maximum shown in OKDHS Appendix 08AX003E. If the total of the shelter costs exceeds the standard shown in OKDHS Appendix 08AX003E, only the amount not exceeding the standard is deducted.~~

(2) **Households with an elderly or disabled member.**

~~(A) The steps listed in (i) through (ix) of this subparagraph are used to determine the household's net food stamp income if the household includes an elderly or disabled member.~~

~~(i) Add gross monthly income earned by all household members, including any net self-employment income minus the earned income exclusions, to determine the household's total gross earned income.~~

~~(ii) Multiply the total gross earned income by the appropriate earned income deduction from OKDHS Appendix 08AX003E and subtract that amount to determine the net monthly income. The earned income deduction is not allowed on any portion of income earned under a work supplementation or support program that is attributable to public assistance.~~

~~(iii) Add the net monthly earned income and the total monthly unearned income of all household members, minus income exclusions.~~

~~(iv) Subtract the standard deduction as shown in OKDHS Appendix 08AX003E.~~

~~(v) Subtract medical expenses which exceed $35 for the elderly or disabled household members only. Thirty-five dollars is subtracted only once for the household rather than for each household member.~~

~~(vi) Subtract monthly dependent care expenses, if any, up to the maximum amount allowed as shown in OKDHS Appendix 08AX003E. A dependent care deduction cannot be allowed for dependent care expenses which are reimbursed or paid for under an Employment and Training Program or other source.~~

~~(vii) Subtract verified legally binding child support payments made to someone outside the food stamp household.~~

~~(viii) Add the allowable shelter expenses to determine the total shelter costs. Subtract from the total shelter costs 50% of the adjusted income, the household's monthly income after all of the deductions in (i) through (vi) of this subparagraph have been subtracted. The remaining amount, if any, is the excess shelter costs. If there are no excess shelter costs, the net monthly income has been determined. If there are excess shelter costs, go to the next step.~~

~~(ix) To apply the excess shelter costs, subtract excess shelter costs from the adjusted income.~~

~~(B)~~ When a household that includes an elderly or disabled member meets the other resource and non-financial conditions of eligibility, the household's net food benefit monthly income and household size are the basis for determining eligibility. The net food benefit monthly income is compared to the Maximum Net Income Standards for the appropriate household size as shown on OKDHS Appendix ~~08AX003E~~ C-3. If the net food benefit income does not exceed this standard, the household is determined eligible.

(c) **Food benefit allotment.**

(1) **Initial month proration.**

(A) Initial month means the first month the household is certified for food benefits following any period during which the household was not certified. Food benefit allotments for an initial month are based upon the date of the application and prorated from the date of application.

(i) Proration of benefits from the application date applies to the new case if one food benefit household separates into two or more food benefit households.

(ii) Migrant and seasonal farm worker's food benefits are not prorated when the household has received food benefits in the prior month.

(iii) While a household's eligibility for the initial month is determined by considering the household's circumstances for the entire month of application, the benefit is based on the day of the month the household applies for benefits.

(iv) The monthly benefit that the recipient would be eligible to receive if proration did not apply must be determined prior to computation by using the prorated benefit on OKDHS Appendix ~~08AX009E~~ B, ~~Proration Table for~~ Prorated TANF and Food ~~Stamp~~ Benefits: Proration Payment Form, or by using the formula: (31 minus the application date) x monthly benefit divided by 30 = the prorated benefit.

(B) The prorated benefit is rounded down to the lower dollar. If the answer is less than $10, the household is denied for the month of application but certified for the next month. If the household applies on the 31st day of the month, use the 30th for the application date for purposes of this provision. Households that apply after the 15th of the month are issued the prorated benefits for the month of application and the benefits for the first full future month on the same day.

(C) When a household is certified for the month following the month of initial application because the household failed to furnish necessary information, benefits are prorated from the date the household furnished the information. The application date becomes the date information was furnished to OKDHS.

(2) **Monthly benefit.** The monthly benefit for all months except the initial month is the amount listed on OKDHS Appendix ~~08AX003E~~ C-3 for the appropriate household size and net income.

(d) **Delayed applications.** Applications that are not approved or denied by the 30th calendar day are considered delayed applications. On the 30th calendar day following the application date, every delayed application is assessed to determine who caused the delay. The purpose of this assessment is to determine if the benefits are denied and what date is used to prorate benefits if the household is determined eligible at a later date.

(1) **Delay caused by the Oklahoma Department of Human Services (OKDHS).** When the processing delay is caused by OKDHS, the application remains in pending status. At the end of the first 30 calendar days the household is notified of the reason the application is still pending using Form 08MP039E, Notice to Client of Action Taken. If the household is later determined eligible, the case is certified back to the date of application. OKDHS caused delays include, but are not limited to, the circumstances given in (A) through (F) of this subparagraph.

(A) The household's first interview was scheduled on or before the 20th day following the date of application. The household appeared for the interview but subsequently failed to provide the required verification. During the interview the worker did not explain to the household or provide the information in writing regarding:

(i) what factors must be verified;

(ii) what is considered acceptable verification; or

(iii) by what date the information must be supplied.

(B) An interview was never scheduled for the household.

(C) The worker did not offer or provide assistance to the household in obtaining the verification as required or did offer assistance but failed to follow through on collateral contacts or release of information.

(D) The worker discovered that additional information was required after the interview but the client did not have ten calendar days between the request for the verification and the 30th calendar day of the application process.

(E) The household missed their first interview on or before the 30th calendar day and requested that the interview be rescheduled. The human services center (HSC) was unable to schedule the second interview date until after the 30th calendar day.

(F) The eligible household provided all the required verification on or before the 30th day, and the application was not approved or denied.

(2) **Delay caused by the household.** When the processing delay is caused by the household, the application is denied on the 30th calendar day. The household is notified by computer-generated notice that the application is denied. When the household provides the required verification in the second 30 calendar days, a new application is not required. If the household is determined eligible, the food benefit allotment is prorated from the date the household provided the verification. Household caused delays include, but are not limited to, the circumstances given in (A) through (C) of this subparagraph.

(A) The household's first interview was scheduled on or before the 20th calendar day following the date of application. The household appeared at the interview but subsequently failed to provide the required verification. The worker provided the household with a statement of required verification, offered to assist the household in obtaining the verification, and also allowed the household sufficient time to provide the verification.

(B) The household missed their first interview and requested on or before the 30th calendar day that the interview be rescheduled. The interview was rescheduled to be held on the 30th calendar day; however, the household did not provide all the required verification at the rescheduled interview.

(C) The household missed their first interview and requested on or before the 30th calendar day that the interview be rescheduled. The household stated they could not come in until after the 30th calendar day.

(e) **Certification periods.** Definite certification periods are established for each eligible household to receive benefits. At the expiration of each certification period, entitlement to food benefits is established only upon a recertification based upon a newly completed application, an interview, and required verification provided. [OAC 340:50-3-2] Under no circumstances are benefits continued beyond the end of a certification period without a redetermination of eligibility.

(1) **Month of application.** The month of application is the first month in the certification period for initial applicants if eligibility is determined within the 30-day period.

(A) Because of anticipated changes, a household may be eligible for the month of application but ineligible for the subsequent month. In this situation, the household is certified for the month of application only.

(B) If a household is found to be ineligible and is denied benefits for the month of application but is eligible for subsequent months, a new application form is not needed and the case is certified effective the month following the month of application.

(2) **Missed interview.** During the application process, a household who did not appear for their first scheduled interview may request a new interview date be scheduled through the 30th day following their application date. See

delayed applications in paragraph (d) of this Section to determine the proration date of the food benefit allotment.

(3) **Information furnished after the application is denied.** When an application is denied because the household did not provide the requested information and the applicant furnishes the required information to determine eligibility within the second 30-day period, a new application is not required. The worker certifies food benefits using the date the information or verification is furnished as the application, certification, or proration date.

(f) **Length of certification periods.** Households are assigned the longest certification period possible based on the predictability of the household's circumstances. In (3) and (4) of this paragraph, the length of the incapacity must be expected to exceed the length of the certification period.

(1) **One month.** A one-month certification is assigned to:

(A) households eligible only for the month of application; and

(B) migrant farm worker households, in the work stream, who apply before the 16th of the month.

(2) **Two months.** A two-month certification is assigned to:

(A) households eligible only for the month of certification and subsequent month; and

(B) migrant farm worker households, in the work stream, who apply after the 15th of the month.

(3) **Three ~~to six~~ months.** A ~~three-to-six-month~~ three-month certification is assigned to ~~all households with circumstances not addressed in subparagraphs (1), (2), or (4) of this paragraph. Information used as guidelines for the length of certification periods for groups listed in this subparagraph is given in (A)(i) through (iii) of this subparagraph~~ households with countable able-bodied adults without dependents (ABAWDs) who are being certified for their initial countable months or have regained eligibility and are being certified for three additional countable months.

(A) The worker reviews the case carefully to ~~see~~ determine if there have been overissuances or underissuances due to the household's failure to report changes in:

(i) ~~changes in~~ income;

(ii) ~~changes in~~ household composition; or

(iii) ~~moving from~~ residence ~~to residence, thereby changing~~ that changes the shelter expense.

(B) The factors in (A)(i) through (iii) of this subparagraph are some of the factors to be checked, but are not meant to be all inclusive. ~~At the discretion of the worker, a shorter certification period may be assigned.~~ The length of the certification period assigned groups in this subparagraph is based on review of the history of the household and the ~~judgment of the worker~~ ABAWD status of household members.

(4) **Twelve months.**

(A) A 12-month certification period is assigned to ~~non-public assistance (non-PA)~~ households at certification unless:

(i) the household includes an ~~able-bodied adult without dependents~~ ABAWD member who is not meeting the work requirement or is not otherwise exempt; or

(ii) all adult household members are elderly or disabled with no earned income.

(B) These households are required to complete Form 08MP004E, Benefit Review Report, at six-month intervals. They are known as semi-annual reporters.

(5) **Twenty-four months.** A 24-month certification period is assigned to ~~non-PA~~ households when all adult members are elderly or disabled with no earned income. These households are required to complete Form 08MP004E at 12-month intervals. They are known as annual reporters.

SUBCHAPTER 11. SPECIAL PROCEDURES

PART 1. HOUSEHOLDS ENTITLED TO EXPEDITED SERVICE

340:50-11-3. Expedited service for migrant or seasonal farm laborers

Migrant or seasonal farm laborer households qualify for expedited service if their liquid resources do not exceed $100 at the time of interview, and their gross monthly income is less than $150 or they are destitute.

(1) **Definition of destitute migrant or seasonal farm laborers.** This definition may only be applied to migrant or seasonal farm laborer households:

(A) Destitute household means the:

(i) ~~The~~ household's only income for the month of application was received prior to application date and was from a terminated source.

(I) Income received on a monthly or more frequent basis is considered as coming from a terminated source if it will not be received again from the same source during the balance of the month of application or the following month.

(II) Income received less often than monthly is considered as coming from a terminated source if it will not be received in the month the next payment would normally be received~~,~~; or

(ii) ~~The~~ household's only income for the month of application is from a new source and income of more than $25 from the new source will not be received by the 10th calendar day and after the date of application.

(I) Income normally received on a monthly or more frequent basis is considered to be from a new source if income of more than $25 has not been received from the source within 30 days prior to the date of application.

(II) Income normally received less often than monthly is considered to be from a new source if income of more than $25 was not received within the last normal interval between payments.

(B) Households may receive both income from a terminated source and income from a new source and still be considered destitute if they received no other income in the month of application.

(C) Households whose income must be averaged on an annual basis or averaged over the period income is intended to cover must have the income averaged and assigned to the appropriate months of the certification period before determining whether a household is destitute. If the averaged income does not come from a new or terminated source and is assigned to the month of application, the household is not considered destitute.

(2) **Calculating income from destitute migrant or seasonal farm laborers.** Destitute households must have their eligibility and level of benefits calculated for the month of application by considering only income received between the first of the month and the date of application. Any income from a new source that is anticipated after the date of application is disregarded.

(3) **Proration of benefits.** Migrant and seasonal farm workers will be issued a full allotment for the month of application when the household has participated in the ~~Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP) within 30 days prior to the date of application. If the household has not participated within the prior 30 calendar days, the allotment is prorated as any other household.

(4) **Procedures for expedited service for migrant or seasonal farm laborers.** Procedures for expediting services in OAC 340:50-11-5 are used ~~with the exception given in this paragraph~~. The exception is that a migrant farm laborer household applying after the 15th of the month who has verifications postponed must have the second month's issuance authorized when verification is received from all in-state sources. Before the household can be certified for a third month, verification for both in-state and out-of-state sources must be provided. These households are entitled to postpone out-of-state verification only once each season.

340:50-11-4. Time limits for providing expedited service

Providing expedited service entails determining food ~~stamp~~ benefit eligibility and authorizing issuance if the household is eligible so that the food ~~stamp~~ benefit is available no later than seven calendar days from the date of application. If the seventh calendar day falls on a non-working day, the last working day prior to the seventh calendar day is the last day for actions described to occur. Households entitled to expedited service but who are ineligible for food ~~stamps~~ benefits because they do not meet non-financial eligibility criteria are denied no later than ~~thirty~~ 30 calendar days after the application date.

(1) **Late entitlement determination.** If the prescreening fails to identify a household as being entitled to expedited service and the ~~county~~ worker subsequently discovers that the household is entitled to expedited service, the ~~county shall provide~~ worker provides such service. The processing standards described in this Section apply, except that the seven days ~~begin~~ begins on the date the household is discovered to be entitled to expedited services.

(2) **Receipt of filing page only.** When the filing page of the application form indicates the household is entitled to expedited service, the worker first attempts to contact the household by telephone to determine if they are entitled to a waiver of the office interview.

(A) If ~~they are~~ the household is entitled to a waiver, the worker schedules a home visit, ~~and~~ completes the application process, and issues benefits to be received within seven calendar days.

(B) If the household is not entitled to a waiver, the household is requested to complete and submit the remainder of the application so it can be processed.

(C) The time limit for providing expedited service begins when the completed and signed application form is received.

PART 3. SIMPLIFIED FOOD STAMP PROGRAM (SFSP) FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) AND COMPANION STATE SUPPLEMENTAL PAYMENT (SSP) RECIPIENT(S)

340:50-11-23. Eligibility determination for households within the Simplified ~~Food Stamp Program (SFSP)~~ Supplemental Nutrition Assistance Program

All households within ~~SFSP~~ Simplified Supplemental Nutrition Assistance Program SSNAP scope meet applicable ~~Food Stamp~~ Supplemental Nutrition Assistance Program ~~(FSP)~~ (SNAP) eligibility rules. ~~Eligibility and benefit~~ Benefit amount ~~are~~ is determined by the computer.

(1) **Income determination.** Food benefit income is based upon Temporary Assistance for Needy Families (TANF) income definitions. If there is a TANF case and a companion State Supplemental Payment (SSP) for the aged, blind, or disabled case, income definitions for TANF and SSP apply. Income amounts from the TANF and SSP cases that are converted to food benefit income, must be classified as food benefit unearned income. Food benefit unearned income is computed for:

(A) TANF cash assistance only. The total household requirement, plus the exempt earned income amount less the non-fraud related recoupment; or

(B) TANF with companion SSP case(s). The total countable income of the companion case(s) is added to the countable income of the primary food benefit case.

(2) **Deduction determination.** The allowable deductions for ~~SFSP~~ SSNAP are shelter, utilities, and medical expense as determined and verified according to ~~FSP~~ SNAP rules in OAC 340:50-7-31. Medical expense must be verified only when the food benefit would be increased by allowing the medical deduction. The dependent care deduction is automatically allowed, when applicable.

340:50-11-24. Food ~~stamp~~ benefit allotments

Food ~~stamp~~ benefit allotments are determined by the computer in accordance with rules found in Sections 2012, 2017, and 2030 of Title 7 of the United States (U.S.) Code and are shown on ~~DHS~~ the Oklahoma Department of Human Services (OKDHS) Appendix C-3, Maximum Food ~~Stamp~~ Benefit Allotments and Standards for Income and Deductions~~, Income, and Utilities~~.

340:50-11-27. Changes after application and during the certification period

Households are required to report changes in accordance with OAC 340:65-5. At each application or redetermination, households are advised of their reporting responsibilities. Households are given a supply of Form 08FB038E, Changes in Household Circumstances, and advised to contact their worker to request additional forms as needed.

(1) **Reported change results in closure of TANF.** When the Temporary Assistance for Needy Families (TANF) cash assistance is closed the:

(A) ~~the~~ worker closes the food benefits the same effective date as the TANF cash assistance closure when the TANF is closed as a result of:

(i) death of the payee;

(ii) failure or refusal to participate in TANF Work;

(iii) the household moves out of state; or

(iv) the household requests closure of the TANF cash assistance and food benefits;

(B) ~~the~~ computer converts the food benefits to transitional food benefits (TFB) when the TANF cash assistance is closed for reasons other than those listed in (A) of this paragraph and:

(i) there is no companion State Supplemental Payment (SSP) case; or

(ii) the TANF case is the primary food benefit case, and the companion SSP case remains open.

(C) ~~the~~ computer converts the food benefits to ~~non-PA~~ Supplemental Nutrition Assistance Program (SNAP) food benefits when the TANF cash assistance is closed for reasons other than those listed in (A) of this paragraph and the companion SSP case, which is the primary food benefit case, remains open.

(2) **Reported changes during the TFB certification period.** The household is not required to report changes timely while receiving TFB. If there is an application for TANF while in TFB status, at certification of the TANF cash assistance, food benefits are converted to Simplified ~~Food Stamp~~ Supplemental Nutrition Assistance Program ~~(SFSP)~~ (SSNAP) as long as all household members are receiving cash assistance.

(3) **Notifications.** The TANF applicant is given a copy of the signed and dated application form which informs the applicant food benefit eligibility is determined using information contained in the application. Notification of eligibility is required at certification and any time the food benefit amount changes. The notice is computer-generated.

PART 12. CATEGORICALLY ELIGIBLE HOUSEHOLDS

340:50-11-111. Categorically eligible household

(a) **Purpose.** This Part includes the requirements for establishing categorically eligible households for the ~~Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP).

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

(1) **"Categorically eligible household"** means:

(A) any household, as defined in OAC 340:50-11-20, in which all members receive or are authorized to receive:

~~(A) Supplemental Security Income (SSI);~~

(~~B~~i) ~~a~~ Temporary Assistance to Needy ~~Family~~ Families (TANF) ~~benefit~~ cash assistance; or

(~~C~~ii) a combination of ~~SSI~~ State Supplemental Payment (SSP) and TANF cash assistance~~.~~;

(B) any household in which all members receive or are authorized to receive Supplemental Security Income (SSI); or

(C) any household in which members receive or are authorized to receive services through the Oklahoma Marriage Initiative except as excluded in (d) of this Section.

(2) **"Authorized to receive"** means that the person has been determined eligible for benefits and has been notified of this determination even though the benefits have not yet been received.

(c) **Suspended, recouped, or benefit not issued.** The fact that TANF or SSI benefits have been suspended, recouped, or are less than the minimum amount paid will have no impact on a determination of categorical eligibility.

(d) **Ineligible households.** A household may not be classified as a categorically eligible household when:

(1) the entire household is institutionalized and the institution is not listed at OAC 340:50-5-25 as an institution where residents may participate in ~~the Food Stamp Program~~ SNAP; or

(2) any member of the household is disqualified for an intentional program violation as defined in OAC 340:50-15-25.

340:50-11-112. When to classify categorically eligible households

~~(a)~~ Food benefit households are immediately classified as a categorically eligible household when all household members

~~receive:~~ meet criteria defined at OAC 340:50-11-111(b) and have not been disqualified for an intentional program violation as defined in OAC 340:50-15-25.

~~(1) Supplemental Security Income (SSI);~~

~~(2) Temporary Assistance for Needy Families (TANF) cash assistance; or~~

~~(3) a combination of TANF cash assistance and SSI benefits~~.

~~(b) For all other food benefit households, the worker must determine if the household is categorically eligible when:~~

~~(1) an application for food benefits is about to be denied because the household has resources or income over the Food Stamp Program standards; or~~

~~(2) a food benefit case is about to be closed because the household has resources or income over the Food Stamp Program standards.~~

340:50-11-113. Financial eligibility factors

(a) When all household members meet categorical eligibility in accordance with OAC 340:50-11-111(b)(1)(A) through (B), they are not subject to income or resource limits of the ~~A categorically eligible household is not subject to the resource and income limitations of the Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP). Income for the household must be verified.

~~(1) **Resources.** These households are considered resource eligible without verification.~~

~~(2) **Income.** These households have neither gross nor net income limits. The worker must verify the household's income.~~

(b) Households authorized to receive services through the Oklahoma Marriage Initiative (OMI) are:

(1) not subject to the resource limits as shown in OAC 340:50-7; and

(2) subject to the income limits as shown on OKDHS Appendix C-3, Maximum Food Benefit Allotments and Standards for Income and Deductions (Maximum gross income standards without elderly/disabled members or Maximum net income standards for households with elderly/disabled members that are not pure SSI and/or TANF households).

(c) Households with a person who is determined to have an intentional program violation (IPV) in SNAP are subject to both income and resource limits at OAC 340:50-7.

340:50-11-114. Non-financial eligibility factors

(a) All household members must meet the citizenship requirements per OAC 340:50-5-67. If ~~an individual's~~ a person's status as a United States (U.S.) citizen or non-citizen national is questionable and was verified for another program, the worker accepts participation in that program as proof of citizenship or lawful alien status.

(b) Aliens who are otherwise ineligible for food benefits are not automatically eligible for food benefits because they receive Supplemental Security Income (SSI). The citizenship requirements supersede the categorical eligibility requirements.

(c) A categorically eligible household receiving SSI or Temporary Assistance for Needy Families is considered as having met the Social Security number (SSN) information, sponsored alien information, and residency requirements for food benefit purposes.

~~(d) If all household members receive or have been authorized to receive SSI benefits and the household is otherwise entitled to be categorically eligible per OAC 340:50-11-111, the household is assumed to have met the Food Stamp Program residency requirements, SSN requirements, resource limits, and net income limits. All household members must meet the citizenship requirements per OAC 340:50-5-67.~~

~~(e) If a household is classified as a categorically eligible household because all household members receive Temporary Assistance for Needy Families (TANF) cash assistance as listed in OAC 340:50-11-20, the household is assumed to have met the Food Stamp Program residency requirements, resource limits, and net income limits.~~

340:50-11-115. Review of categorical eligibility

~~For all households, the household's categorical~~ When all or some of the household members lose eligibility ~~status must be reviewed when all or some of the household members lose eligibility~~ for Supplemental Security Income (SSI) or Temporary Assistance for Needy Families (TANF) ~~unless these benefits are being recouped or suspended~~ for any reason except recoupment or suspension, the worker must review the household's eligibility status.

(1) ~~If the~~ The household ~~continues to be~~ is no longer categorically eligible~~, the food benefit portion of the case is not closed due to excess resources or~~ based on income. The food benefits must be closed when the household's income exceeds standards on Appendix C-3, Maximum Food Benefit Allotments and Standards for Income and Deductions for non-categorically related households.

(2) ~~If the~~ The household ~~is no longer~~ remains categorically eligible~~, the food benefits are closed when the household's income or~~ based on resources ~~exceed Food Stamp Program limits~~ unless a household member has been determined to have committed an intentional program violation (IPV) according to OAC 340:50-15-25.

SUBCHAPTER 13. FAIR HEARINGS

340:50-13-3. Quality control

There is a review of a scientific sample of applications and case actions relating to the ~~Food Stamp~~ Supplemental Nutrition Assistance Program by the Administrative Review Unit (ARU) in the same manner as for ~~public assistance and~~ medical assistance actions. The sample is selected monthly by the Office of Planning, ~~Policy, and~~ Research, and Statistics. ARU requests the case records listed on the monthly sample list from the human services center (HSC). The ~~county records for all cases in the sample are requested by ARU where the~~ cases are ~~scheduled and~~ assigned to a social services inspector for verification of conditions of eligibility ~~is determined~~. Any defects are

referred to the Family Support Services Division (FSSD), who notifies the ~~county~~ HSC of corrective action indicated on the individual case. ~~Quarterly reports from ARU are used for supervisory purposes, follow-up training, and clarification of policies.~~

(1) At any point in the quality control review a household fails to cooperate with the quality control reviewer, the ~~quality control~~ reviewer contacts the local ~~Oklahoma Department of Human Services office~~ HSC staff and a prompt joint interview is conducted with the household, if needed.

(2) If, following the interview or during the joint interview, the household refuses to cooperate, ARU notifies ~~the county office~~ local HSC staff and FSSD of the household's refusal to cooperate with the quality control reviewer.

(A) FSSD sends a "Notice of Refusal to Cooperate with Quality Control" to the ~~county office~~ HSC instructing that open food ~~stamp~~ benefits must be closed at the next effective date.

(B) ~~The county office~~ HSC staff is then responsible for taking immediate action to notify the household that food ~~stamp~~ benefits will be terminated for refusal to cooperate with the quality control review.

(C) A household who has been terminated for refusal to cooperate with a quality control review may reapply and be certified for participation in the program only when the household cooperates fully and completely with ARU in the completion of the quality control review.

340:50-13-4. Effective and efficient operation

United States Department of Agriculture ~~Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP) regulations have been amended to require States to have a system for maintaining and improving the administration of ~~the Food Stamp Program~~ SNAP. This monitoring system, called Effective and Efficient Operation, requires the review of ~~program~~ SNAP management and operations at the ~~county~~ local human services center (HSC) level. ~~The review will cover information concerning county management practices and controls, quality control corrective action planning, staff training, coordination of outreach efforts, program supervision, fair hearing procedures, fiscal controls, timeliness and accuracy of reports and any functions relating to the certification of households.~~

SUBCHAPTER 15. OVERPAYMENTS AND FRAUD

PART 1. OVERPAYMENTS

340:50-15-1. Scope and applicability

An overissuance or overpayment of food benefits occurs when a household receives more food benefits than it is entitled to receive. When the worker determines a household may have received more food benefits than it is entitled to receive, the worker documents the circumstances leading to the overpayment and computes the amount of the overpayment.

(1) Instances which may result in establishment of an overpayment claim include, but are not limited to:

(A) the household:

(i) failing to provide the Oklahoma Department of Human Services with correct or complete information;

(ii) failing to report changes in household circumstances;

(iii) electing to receive benefits pending a fair hearing decision which subsequently found the household ineligible or eligible for fewer benefits; or

(iv) trafficking benefits;

(B) the worker:

(i) assigning an incorrect allotment;

(ii) failing to take prompt action on a change reported by the household;

(iii) incorrectly computing the household's income, deductions, or both; or

(iv) incorrectly authorizing issuance to a household; or

(C) any overissuance discovered as a result of an Office of Inspector General (OIG) Administrative Review Unit review.

(2) Persons responsible for paying a claim are:

(A) each person who was an adult member of the household when the overpayment or trafficking benefits occurred and which resulted in an established overpayment claim; or

(B) a person connected to the household, such as an authorized representative, who actually trafficks or otherwise causes an overpayment or trafficking.

(3) The Family Support Services Division (FSSD) Benefit Integrity and Recovery Section classifies overpayments as inadvertent household error, intentional program violation also known as fraud, or agency error. All food benefit overpayment claims are considered as inadvertent household error or agency error until Form 08OP016E, Administrative Disqualification Hearing Waiver, is signed or a court of law finds a household guilty of fraud.

(4) The worker and supervisor calculate all overpayment claims and establish any overpayments under $500 due to inadvertent household error and all agency error overpayments, regardless of the amount. Once an overpayment is established, notices sent to the client include:

(A) Form 08OP009E, Notification of Food ~~Stamp~~ Benefit Overpayment;

(B) page 1 of Form 08OP005E, Report of Food ~~Stamp~~ Benefit Overissuance; and

(C) Form 08OP118E, Food ~~Stamp~~ Benefit Repayment Agreement.

(5) When the overpayment is $500 or more and due to inadvertent client error, it is sent to the FSSD Benefit Integrity and Recovery Section. FSSD Benefit Integrity and Recovery Section staff either establishes the overpayment claim and notifies the household of the overpayment with

appropriate notices or refers the case to OIG for a possible judicial determination.

(A) When the case is transferred to OIG, the overpayment claim is not established and notices are not sent to clients until after OIG completes its determination.

(B) After OIG acquires a judicial determination and the claim is either determined to be an intentional program violation or fraud or remains an inadvertent household error, the claim is released back to the FSSD Benefit Integrity and Recovery Section to establish the overpayment claim.

(C) After the overpayment claim is established, the client is sent Form ~~080P009E~~ 08OP009E, page 1 of Form ~~080P005E~~ 08OP005E, and Form ~~080P118E~~ 08OP118E.

(6) Food benefit overpayment claims classified as inadvertent household error or agency error do not cover more than 12 months prior to the month in which the overpayment was discovered. Food benefit overpayments classified as fraud or intentional program violation may cover the entire time the overpayment occurred. However, the time covered cannot include periods more than six years prior to the date the overpayment was discovered.

(7) Food benefit overpayments arising from trafficking related offenses are the value of the trafficked benefits as determined by the person's admission, adjudication, or documentation that forms the basis for the trafficking determination. OIG refers these cases directly to the FSSD Benefit Integrity and Recovery Section for establishment of the claim and/or disqualification.

340:50-15-2. Instances when overpayment claim is not required

Per Section 273.18(e)(2)(ii) of Title 7 of the Code of Federal Regulations, the worker does not establish an overpayment claim when the error causing the overpayment is classified as inadvertent client error or agency error and all of the conditions included in (1) through (3) exist.

(1) The overpayment is less than $250.

(2) The household is not participating in the ~~Food Stamp~~ Supplemental Nutrition Assistance Program at the time of discovery of the overpayment.

(3) The overpayment was not discovered in an Office of Inspector General Administrative Review Unit review.

340:50-15-3. Overpayment claim procedures

(a) The earned income deduction is not allowed in determining the overpayment amount when a recipient fails to report earned income in a timely manner.

(b) When the worker believes a household received an overissuance of food benefits, the worker documents the circumstances causing the overpayment and calculates the overpayment claim. The food benefit claim is considered established when the overpayment notice is dated and mailed to the client.

(c) The worker and supervisor establish overpayment claims classified as inadvertent household error and less than $500, and all agency error claims regardless of the amount. Notices sent to the client include:

(1) Form ~~080P009~~ 08OP009, Notification of Food ~~Stamp~~ Benefit Overpayment;

(2) page 1 of Form ~~080P005E~~ 08OP005E, Report of Food Stamps Overissuance; and

(3) Form ~~080P118E~~ 08OP118E, Food ~~Stamp~~ Benefit Repayment Agreement.

(d) Calculated overpayments that are $500 and over that are not due to agency error are not established until reviewed by staff in the Family Support Services Division (FSSD) Benefit Integrity and Recovery Section staff. In most instances after calculation, FSSD staff sends these overpayments to the Office of the Inspector General (OIG) to determine fraudulent intent prior to establishing the overpayment.

340:50-15-4. Overpayments by classification

(a) **Overpayment claim classified as inadvertent household error.** An overpayment claim is classified as an inadvertent household error if the overissuance was caused by a misunderstanding or unintended error on the part of the household. Instances of inadvertent household error which may result in an overpayment claim include, but are not limited to, when the household inadvertently:

(1) failed to provide the Oklahoma Department of Human Services (OKDHS) with correct or complete information;

(2) failed to report changes in household circumstances; or

(3) received benefits or more benefits than it was entitled to receive pending a fair hearing decision.

(b) **Overpayment claim classified as agency error.** An overpayment claim is classified as an agency error if the overissuance was caused by OKDHS action or failure to take action. Instances of agency error which may result in an overpayment include, but are not limited to, when OKDHS:

(1) failed to take prompt action on a change reported by the household;

(2) incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment;

(3) incorrectly issued benefits to a household;

(4) incorrectly applied policy or procedure; or

(5) failed to reduce food benefits because the household's public assistance benefits changed.

(c) **Overpayment claim classified as intentional program violation.** An overpayment claim is classified as an intentional program violation when it is determined that a person has intentionally given false information or withheld facts in order to receive food benefits or trafficked benefits for cash or non-food items. This determination is made through an administrative disqualification hearing, signing Form 08OP016E, Administrative Disqualification Hearing Waiver, or by a court decision. Instances of intentional program violation which may result in an overpayment claim include, but are not limited to, when a person in the household:

(1) made a false or misleading statement, or misrepresented, concealed, or withheld facts; or

(2) committed an act that constitutes a violation of the ~~Food Stamp~~ Supplemental Nutrition Assistance Program relative to the use, presentation, transfer, acquisition, receipt, or possession of food benefits.

340:50-15-5. Right to appeal

If there is a disagreement with the overpayment decision, the household may request a hearing within 90 calendar days of the date on Form 08OP009E, Notification of Food ~~Stamp~~ Benefit Overpayment. Upon notification from the Appeals Unit of receipt of Form 13MP001E, Request for a Fair Hearing, the Family Support Services Division (FSSD) Benefit Integrity and Recovery Section postpones reduction in food benefits pending the hearing decision.

340:50-15-6. Development of repayment

(a) **Repayment of established ~~overpayments~~ overpayment claims.** Households must make repayment on all established overpayment claims regardless of the reason for the overpayment. Family Support Services Division (FSSD) ~~Overpayment~~ Benefit Integrity and Recovery Section initiates collection efforts against all adult household members except those who are deceased. Collection may be received from two separate households for the same claim. Any ~~other collection method~~ repayment option shown at (d) of this Section may be used ~~against~~ to collect the overpayment claim from any adult ~~individual~~ who was in the household at the time of the overpayment and who is not ~~a current~~ currently a member of the household undergoing allotment reduction.

(b) **Repayment plan time frames.** ~~The~~ After the overpayment is established, the FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section sends the client Form ~~FSP-18-B~~ 08OP118E, Food ~~Stamp~~ Benefit Repayment Agreement, that explains the acceptable methods of repayment for the debt classification. The client is responsible for completing and returning Form ~~FSP-18-B~~ 08OP118E within the appropriate time frame.

(1) The food ~~stamp~~ benefit overpayment claim is considered delinquent if the overpayment claim is not paid within 30 calendar days of the date of the ~~FSP-S-18~~ Form 08OP009E, Notification of Food ~~Stamp~~ Benefit Overpayment, or a monthly payment, as designated on the repayment agreement, has not been made by the due date.

(2) An overpayment claim is not considered delinquent if another food ~~stamp~~ benefit overpayment claim for the same household is currently being paid either through a previous repayment agreement or allotment reduction.

(c) **Consequences of non-return of repayment agreement.** Paragraphs (1) ~~through~~ and (2) of this subsection describe the ~~basis for acceptable methods of~~ consequences of non-return of the repayment ~~and~~ agreement within appropriate time frames ~~for client responses~~.

(1) **Agency error or inadvertent ~~client~~ household error.** To make a voluntary plan of repayment of an agency error or inadvertent ~~client~~ household error ~~debt~~ claim, the client must complete and return Form ~~FSP-18-B~~ 08OP118E within 30 calendar days of the date on the form. If the client fails to return Form ~~FSP-18-B~~ 08OP118E, FSSD begins recoupment from the client's food ~~stamp~~ benefits or other collection methods.

(2) **Intentional program violation.** To make a voluntary plan of repayment of an intentional program violation debt, the client must complete and return Form ~~FSP-18-D, Repayment Agreement Fraud Debt~~ 08OP118E, within 30 calendar days of the date on the form. If the client fails to return Form ~~FSP-18-D~~ 08OP118E, FSSD begins recoupment from the client's food ~~stamp~~ benefits or other collection methods.

(~~b~~d) **Repayment options.**

(1) **Payment in full.** The client may repay an overpayment claim in one lump sum by personal check, money order, cashier's check, or Electronic Benefit Transfer (EBT) debit with a signed statement.

(2) **Monthly payments.** The client may repay an overpayment claim in regular monthly installments by personal check, money order, cashier's check, or approved EBT debits. The amount to be repaid in monthly installments cannot be less than the amount that could be recovered through allotment reduction.

~~(3) **Food stamp allotment reduction.**~~

(A) **Agency error or inadvertent ~~client~~ household error.** The FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section processes the reduction in the amount of 10% of the client's monthly allotment or $10, whichever is greater. The client may request a reduction up to the client's maximum monthly allotment.

(B) **Intentional program violation.** The FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section processes the reduction in the amount of 20% of the client's monthly allotment or $20, whichever is greater. The client may request a reduction up to the client's maximum monthly allotment.

(~~4~~3) **Lost benefit reductions.** Any lost benefit due the household is used as payment on a food ~~stamp~~ benefit overpayment claim.

(~~5~~4) **Client authorized EBT debits.** A household may make a voluntary payment through a debit from the EBT Access account. In order to debit the EBT account, a signed statement must be received from the client or the household's authorized~~,~~ representative giving permission for the debit. This statement is faxed to the FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section for immediate processing.

(~~6~~5) **Expunged benefits.** Expunged food ~~stamp~~ benefits are those where the account has not been accessed for one year. These expunged benefits, when known and identified with an overpayment account are used to adjust the overpayment balance by the amount of the expunged benefit.

(~~7~~6) **Stale benefits.** Stale food ~~stamp~~ benefits are those where the account has not been accessed for three months.

These benefits, when known and identified with an overpayment account, are used as payment on a food ~~stamp~~ benefit overpayment claim. ~~This is done only after the client is notified of this intent on the EBT Inactivity Notice and given 30 days from the date of the notice to request these benefits be left in the account for client use.~~

(~~c~~e) **Reconsideration of repayment plan.** The client may request reconsideration of the repayment plan by submitting information regarding changes in family and financial circumstances directly to the FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section. The FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section reconsiders any repayment plan if circumstances warrant.

(~~d~~f) **Referrals for Treasury Offset Program (TOP).** If the client fails to pay the overpayment claims or payments have become delinquent, the FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section ~~will make referrals~~ makes a referral to TOP.

(1) **Criteria for TOP.** The criteria for state and federal tax offsets are the:

(A) amount owed must be at least $25;

(B) claim is under ten years delinquent except for judgment claims;

(C) claim is delinquent by 180 days;

(D) overpayment claim is not part of a bankruptcy stay or under litigation or review;

(E) client received the original notification of the debt; and

(F) overpayment claim is not being collected through allotment reduction, also known as recoupment, or under an approved repayment plan.

(2) **Notification of TOP.** The FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section notifies ~~individuals~~ a person of any intended referral to TOP ~~and mails the notices as the overpayment claim meets the criteria in paragraph (1) of this subsection and~~ 60 calendar days prior to referring the overpayment claim to TOP. The ~~Overpayment Section mails TOP notices to individuals~~ notice is mailed to the household at the address provided by United States Department of Agriculture (USDA), Food and Nutrition Service. Information contained in the notice includes:

(A) the ~~individual's~~ person's Social Security number;

(B) the citation of the statutory authority for the offset;

(C) the instructions on how to pay the claim;

(D) the ~~individual's~~ person's right to request a review;

(E) all TOP exemptions and restrictions;

(F) information regarding spousal protection from offset;

(G) a statement that all adult household members who were members when the overpayment occurred are liable for repayment of the food ~~stamp~~ benefit overpayment claim; and

(H) the ~~individual's~~ person's right to review applicable records.

(3) **Request for review of intended action.** ~~Individuals~~ A person whose food ~~stamp~~ benefit overpayment ~~claim(s) are being~~ claim is referred to TOP may ask for a review of the intended action. The ~~individual's~~ person's contention that the claim is not past due or legally enforceable is the basis for the review.

(A) A claim is not past due and legally enforceable if the person:

(i) ~~claim has been paid and the individual~~ proves ~~it~~ the claim has been paid;

(ii) ~~individual~~ cited for offset is not the person who owes the claim;

(iii) ~~individual~~ substantiates bankruptcy action; or

(iv) ~~individual~~ denies he or she was informed of the overpayment claim and a review of Oklahoma Department of Human Services files substantiates the denial.

(B) The ~~client~~ person must request the review within 60 calendar days of the TOP notice date. FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section sends written notification of the review decision to ~~individuals~~ persons requesting reviews. The notice informs ~~individuals~~ the person requesting a review why the overpayment is or is not being referred to TOP and further review rights to which ~~they are~~ he or she is entitled.

(C) The ~~individual~~ person can avoid referral to TOP if the ~~individual~~ person pays the overpayment claim in full or a payment specified by the FSSD ~~Overpayment~~ Benefit Integrity and Recovery Section along with an acceptable repayment agreement ~~by~~ is received within 60 calendar days from the date of the TOP notice.

PART 3. FRAUD

340:50-15-25. Cases referred for intentional program violation determination

(a) **Cases determined by administrative disqualification hearing (ADH).** For a determination of intentional program violation, Family Support Services Division (FSSD) Benefit Integrity and Recovery Section and Oklahoma Department of Human Services (OKDHS) Office of Inspector General (OIG) staff make referrals for an ADH to the OKDHS Legal Division Appeals Unit. The cases referred contain documentary evidence of intentional program violation, but do not warrant civil or criminal prosecution.

(1) **Waiving of ADH.** A client suspected of intentional program violation may choose to waive his or her rights to an ADH. The client must complete and sign Form ~~080P016E~~ 08OP016E, Administrative Disqualification Hearing Waiver, if the client requests a waiver. A waiver of the hearing subjects the client to the same penalties as if the hearing process determined intentional program violation.

(2) **Penalties for intentional program violation.** When the ADH results in an intentional program violation

determination or the client waives his or her right to the hearing process, the FSSD Benefit Integrity and Recovery Section imposes the penalties in (A) - (B) of this paragraph.

(A) **Disqualification.**

(i) **Notification.** FSSD Benefit Integrity and Recovery Section sends Form 08AD019E, Program Penalty/Disqualification Notice, to the disqualified member. Form 08AD019E includes information regarding the remaining household members' eligibility.

(ii) **Period of disqualification.** The period of disqualification for ~~an individual~~ a person is one year for the first violation, two years for the second violation, and permanently for the third violation.

(I) Any person disqualified for intentional program violation prior to April 1, 1983, is considered to have one violation regardless of the number of prosecutions.

(II) A person is disqualified for a period of ten years if the person is found to have made a fraudulent statement or representation with respect to identity or place of residence in order to receive multiple benefits simultaneously under the ~~Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP).

(iii) **Disqualification effective date.** Disqualification begins the first possible effective month following the date of Form 08AD019E, or the date specified on the ADH decision letter. Once the disqualification begins, it runs continuously until the end of the period imposed.

(iv) **Disqualification computation.** Either the worker or FSSD Benefit Integrity and Recovery staff removes the disqualified person from the household size. The worker counts the resources and gross income of the disqualified person in their entirety as available to the remaining household members and allows all applicable deductions for remaining household members.

(B) **Repayment.** A client must repay food benefit overpayments regardless of any disqualification penalty. FSSD Benefit Integrity and Recovery Section notifies the client of the necessity for making a repayment plan by Form ~~080P118E~~ 08OP118E, Food ~~Stamp~~ Benefit Repayment Agreement. The options for the repayment plan are the same as those listed in OAC 340:50-15-6.

(b) **Cases determined by a court.** The FSSD Benefit Integrity and Recovery Section refers all cases suspected of intentional program violation to OIG to make a determination of whether court action is feasible.

(1) OKDHS staff must not discuss the overpayment claim with the client until court action is completed or the FSSD Benefit Integrity and Recovery Section notifies the human services center (HSC) of any action to be taken. Local staff forwards further information or directs client inquiries to the FSSD Benefit Integrity and Recovery Section.

(2) A court of appropriate jurisdiction may find one or more persons in the household guilty of obtaining food benefits by fraudulent means. The court may charge the person with either a misdemeanor or felony depending on the amount of food benefits obtained fraudulently.

(3) Procedures for disqualification penalties are the same as in cases determined by administrative disqualification hearings at (a)(2) of this Section with the exceptions included in (A) through (D).

(A) The court may specify the length of the disqualification. These court specified periods of disqualification override (a)(2)(ii) of this Section.

(B) A person determined by a court to have committed intentional program violations of trading benefits for firearms, ammunition, explosives, or controlled substances is subject to disqualification:

(i) for two years for the first offense and permanently for the second offense involving the sale of a controlled substance for food benefits; and

(ii) permanently for the first offense involving the sale of firearms, ammunition, or explosives for food benefits.

(C) A person convicted of trafficking food benefits of $500 or more is permanently disqualified from participation in ~~the Food Stamp Program~~ SNAP. Trafficking includes:

(i) fraudulently using, transferring, altering, acquiring, or possessing Electronic Benefit Transfer (EBT) cards or access devices; or

(ii) presenting food benefits for payment or redemption knowing the same to have been fraudulently obtained or transferred.

(D) A person is disqualified from participation in ~~the Food Stamp Program~~ SNAP for a 10-year period if the person is found to have made a fraudulent statement or representation with respect to identity or place of residence in order to receive multiple benefits simultaneously under ~~the Food Stamp Program~~ SNAP.

(4) The court may also stipulate a repayment plan. The repayment plan cannot be renegotiated. The Benefit Integrity and Recovery Section may refer the case back to the district attorney's office if the client fails to comply with the repayment plan.

340:50-15-26. Reporting incidences of abuse in the ~~food stamp program~~ Supplemental Nutrition Assistance Program

In addition to submitting overpayments involving suspected fraud of households, the worker is also responsible for submitting any incidence of reported abuse on the part of any ~~individual~~ person, or a participating food store. Other incidences of reported fraud are submitted by memorandum to the ~~State Office, Attention Food Stamp~~ Family Support Services Division (FSSD) Supplemental Nutrition Assistance Program (SNAP) Section. The memorandum ~~should outline~~ outlines

the complaint in sufficient detail to facilitate a follow-up investigation. Further action is not taken by ~~the county office~~ human services center (HSC) staff pending investigation, and suspected ineligibles continue to participate in ~~the Food Stamp Program~~ SNAP during the investigation. The ~~Food Stamp~~ FSSD SNAP Section~~, State Office,~~ refers the complaint to the Office of Inspector General for investigation and determination of whether to pursue administrative and/or court action. Instances of misrepresentation or fraudulent acts on the part of a participating merchant may be referred to the United States Department of Agriculture by the ~~State~~ Oklahoma Department of Human Services (OKDHS) Director.

340:50-15-27. Other penalties for misuse of benefits

Section 243 of Title 56 of the Oklahoma Statutes provides for penalties due to misuse of food benefits for those recipients who receive benefits fraudulently. Federal penalties for misuse of food benefits are found in Section 15 (b) and (c) of the ~~Food Stamp Act~~ Food and Nutrition Act of 2008 [7 U.S.C. § 2024].

[OAR Docket #09-493; filed 3-25-09]

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

[OAR Docket #09-491]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
340:60-1-3 [AMENDED]
(Reference APA WF 08-08)
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.
DATES:
Comment period:
December 15, 2008 through January 14, 2009
Public hearing:
None requested
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January 29, 2009
Submitted to Governor:
January 29, 2009
Submitted to House:
January 29, 2009
Submitted to Senate:
January 29, 2009
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March 2, 2009
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 25, 2009.
Final adoption:
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Effective:
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SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
340:60-1-3 [AMENDED]
(Reference APA WF 08-08)
Gubernatorial approval:
October 31, 2008
Register publication:
26 Ok Reg 179
Docket number:
08-1333
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Chapter 60 rules are amended 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.
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-3611.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 25, 2009:

340:60-1-3. Refugee Resettlement Program (RRP)

(a) **The Refugee Act of 1980.** The Oklahoma Department of Human Services (OKDHS) RRP uses the international definition of refugee adopted under the Refugee Act of 1980.

(b) **Refugee documentation.** An applicant for assistance under the ~~RFP~~ RRP must provide documentation issued by the United States Citizenship and Immigration Services (USCIS). Acceptable documentation includes, but is not limited to:

(1) Form I-94, Departure Record;
(2) Form I-551, Legal Permanent Resident Card;
(3) a passport stamped with the classification status;
(4) a T-Visa; or
(5) a letter or order from the USCIS or court granting asylum.

(c) **Refugee status.** Documentation from USCIS provided by the applicant must show the applicant's status is:

(1) paroled as a refugee or asylee under Section 212(d)(5) of the Immigration and Nationality Act (~~Act~~ INA);
(2) admitted as a refugee under Section 207 of the ~~Act~~ INA;
(3) granted asylum under Section 208 of the ~~Act~~ INA;
(4) admitted as an Amerasian immigrant from Vietnam under Section 584 of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1989, as amended;
(5) admitted for permanent residence, provided the ~~individual~~ person previously held one of the statuses identified in this Section;
(6) a Cuban or Haitian entrant; ~~or~~
(7) an alien and his or her eligible relatives who are victims of a severe form of trafficking pursuant to Section 107(b) of the Trafficking Victims Protection Act of 2000 which was reauthorized and amended by the Trafficking Victims Protection Reauthorization Act of 2003~~.~~;

(8) an Iraqi admitted under special immigrant status pursuant to Section 525 of Division G of Public Law (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; or

(9) an Afghan admitted under special immigrant status pursuant to Section 525 of Division G of P.L. 110-161 of the Consolidated Appropriations Act of 2008 and Section 101(a)(27) of the INA [8 U.S.C. 1101 (a)(27)].

(d) **Verification of alien status.** ~~Form PS-4, Declaration of Citizenship Status, is a required part of the application process.~~ A declaration of alien status is required at application for all persons applying for RRP.

(1) Under penalty of perjury, ~~Form PS-4 must be signed attesting to citizenship or lawful alien status by:~~

~~(A) each adult included in the case; and~~

~~(B) an adult included in the case for all individuals under 18 years of age. In the absence of an adult in the case, the applicant, payee, or responsible adult acting in behalf of minor individuals signs Form PS-4~~ the applicant declares the alien status of all persons applying for RRP benefits on the application form and signs the application. After certification, this declaration is made on Form 08MP022E, Declaration of Citizenship Status, before additional persons are added to the benefit.

(2) The Systematic Alien Verification for Entitlement (SAVE) process is used to verify alien status per OAC 340:65-3-4~~(a)~~(5).

(e) **Exclusions from RRP.** Persons excluded from participation in RRP are:

(1) resident aliens who did not previously have the status of refugee or asylee; or

(2) any applicant for asylum who has not been granted asylum status.

[OAR Docket #09-491; filed 3-25-09]

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

[OAR Docket #09-486]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 8. Supplemental Security Income-Disabled Children's Program (SSI-DCP)
340:70-8-1 [AMENDED]
(Reference APA WF 08-23)
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.
DATES:
Comment period:
December 15, 2008 through January 14, 2009
Public hearing:
None requested
Adoption:
January 29, 2009
Submitted to Governor:
January 29, 2009
Submitted to House:
January 29, 2009
Submitted to Senate:
January 29, 2009
Gubernatorial approval:
March 2, 2009
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 25, 2009.
Final adoption:
March 25, 2009
Effective:
June 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
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 under the Supplemental Security Income Disabled Children's Program (SSI-DCP).
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2009:

SUBCHAPTER 8. SUPPLEMENTAL SECURITY INCOME-DISABLED CHILDREN'S PR0GRAM (SSI-DCP)

340:70-8-1. Eligibility and available services

The Supplemental Security Income-Disabled Children's Program (SSI-DCP) is established under Section 1615 of the Social Security Act and administered by the Oklahoma Department of Human Services (OKDHS) Family Support Services Division (FSSD). The Social Security Administration (SSA) refers children under 18 who have been approved for Supplemental Security Income (SSI) to OKDHS, the designated state agency that provides social services.

(1) **Eligibility.** Any child from birth to 18 years of age is eligible for SSI-DCP services if the child receives a SSI payment. SSA establishes financial and medical eligibility for the SSI disability payment. Once the child turns 18, he or she is not eligible.

(2) **Service plan.** A service plan must be written by a worker for each child receiving SSI-DCP services to plan current and future social service needs.

(A) This plan must be reviewed yearly in conjunction with the eligibility review.

(B) If the child has other types of benefits that require a current social service plan, an additional social service plan is not necessary.

(3) **Services and equipment.** SSI-DCP provides funding for the services and equipment described in (A) through (~~F~~E) of this paragraph. The parent, guardian, or caretaker must request services and equipment through the Family Support Services (FSS) worker in the local human services center (HSC). All equipment and services available through SSI-DCP must be pre-approved by FSSD Health Related and Medical Services (HR&MS) Section. HR&MS staff considers whether other resources are available or if the child is in a temporary living situation to determine whether to approve the service or equipment.

~~(A) **Child care.** Child care services are provided to enhance social skills and assist transition into a group setting such as the classroom. Enrichment child care is available to a child with disabilities for a maximum of two days per week not to exceed ten full time or part time days per month.~~

~~(i) The parent, guardian, or caretaker must provide a written recommendation from a professional who is working directly with the child in some capacity that states how child care would be beneficial to the child. The professional may be an occupational therapist, physical therapist, special education teacher, or physician.~~

~~(ii) Unless special circumstances exist, the child care is only for a child who has not yet started school or Head Start and when no other funding source exists to provide child care.~~

~~(iii) When enrichment child care is approved, care must be provided outside of the child's home in a licensed and contracted child care facility where at least one other child must be attending during the same hours.~~

(~~B~~A) **Equipment.** Equipment approved through SSI-DCP must be used to aid the child in accessibility or mobility. The parent, guardian, or caretaker must provide a written recommendation from a professional, such as an occupational therapist, physical therapist, special education teacher, or physician, who has professional knowledge concerning the equipment needs of the child. SSI-DCP does not pay for repairs of purchased equipment, van lifts, or other items.

(i) Computers or computer software are not in the scope of the program.

(ii) Educational or classroom devices, equipment, or supplies that are not adapted for the needs of the child are not in the scope of the program.

(iii) Van lifts are available to a child who is not in the custody of OKDHS, tribal custody, or in the Developmental Disabilities Home and Community-Based Waiver Program. Modifications to the van are not approved.

(I) The parent, guardian, or caretaker must own the van as verified by title registration and license verification, and the van must be in operating condition.

(II) The worker advises the family that estimates are required from two van lift dealers who employ certified van lift installation technicians.

(III) Only a certified van lift specialist is approved to install the lift and the lift must have factory and dealership warranty equal to private purchase warranty.

(IV) The life expectancy of a van lift is ten years through SSI-DCP. Under no circumstances will the lift be replaced prior to the ten-year period.

(V) All repairs are the responsibility of the family.

(~~C~~B) **Diapers.** Certain diapers are available through the OKDHS Supply Warehouse. To be eligible to receive diapers, the child must be at least four years of age. Once the child turns 18, he or she is not eligible. A physician must document in writing that the child cannot be toilet trained. This service request must be renewed yearly at the time of the review to continue receipt of the diapers.

(~~D~~C) **Formula.** Certain formula is available through the OKDHS Supply Warehouse. A physician or nutritionist must provide a prescription naming the brand of formula needed by the child. A prescription is required yearly at the time of the review to continue receipt of the formula.

(~~E~~D) **Developmental aid.** A developmental aid is any device or equipment that is adapted to meet the needs of a child with special needs. A professional, such as an occupational therapist, physical therapist, special education teacher, or physician, must provide a written explanation concerning the goals and objectives this developmental aid would meet before it can be approved.

(~~F~~E) **Professional services.** Professional services are non-medical services recommended by a physician, physical therapist, or occupational therapist that clearly define goals and objectives to achieve results. As the budget allows, certain services are available on a temporary basis.

(4) **Purchasing procedures.** Equipment orders are processed through the OKDHS Support Services Division (SSD) Contracts and Purchasing Unit.

(5) **SSI-DCP notices.** If a SSI-DCP request is denied, a computer-generated denial notice is sent to the child advising the item is not approved for purchase through the SSI-DCP funding. The family may request a fair hearing within 30 days from the date of the notice by completing Form 13MP001E, Request for a Fair Hearing.

(6) **Respite Voucher Program.** The Respite Voucher Program provides financial assistance in the form of vouchers to families to pay for respite care so the caregiver can take a break. When the family appears to be eligible for the Respite Voucher Program, the worker advises the family to call a designated number to request a respite voucher application. Funds used to pay for these

vouchers are provided by the SSI-DCP Program, other OKDHS programs, and other public and private agencies.

(A) The caregiver is the person who provides on-going care for the child. He or she can be a parent, a grandparent, other relative, or a non-relative.

(B) When respite care is approved it:

(i) is not designed to pay for ongoing care such as child care, therapy, in-home assistance, housekeeping, or home health services; and

(ii) cannot be provided by a member of the child's household.

[OAR Docket #09-486; filed 3-25-09]

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

[OAR Docket #09-512]

RULEMAKING ACTION:
PERMANENT final adoption
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 [AMENDED]
Part 3. Child Welfare Confidentiality
340:75-1-44 [AMENDED]
Part 10. Oklahoma Children's Services (OCS)
340:75-1-152.5 [AMENDED]
Subchapter 6. Permanency Planning
Part 1. General Provisions
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)
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.
DATES:
Comment period:
December 15, 2008 through January 14, 2009
Public hearing:
None requested
Adoption:
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Submitted to Governor:
January 29, 2009
Submitted to House:
January 29, 2009
Submitted to Senate:
January 29, 2009
Gubernatorial approval:
March 2, 2009
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 25, 2009.
Final adoption:
March 25, 2009
Effective:
May 15, 2009
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 7. Kinship Placements
Part 2. Development of Resources
340:75-7-24
(Reference APA WF 08-11)
Gubernatorial approval:
November 20, 2008
Register publication:
26 Ok Reg 413
Docket number:
08-1500
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
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.

CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 15, 2009:

SUBCHAPTER 1. GENERAL PROVISIONS OF CHILD WELFARE SERVICES

PART 1. SCOPE AND APPLICABILITY

340:75-1-18. Dispositional hearing

(a) **Dispositional hearing.** After a child is adjudicated deprived, the court holds a dispositional hearing, per Section 7003-5.5 of Title 10 of the Oklahoma Statutes. The court must enter a dispositional order on the same day or within 40 days of adjudication, unless the court finds on the record that the child's best interests are served by granting a delay.

(1) If the court grants a delay, the court must state why the delay is necessary and the minimum amount of time needed to resolve the reasons for delay.

(2) If the child is removed from the parent(s)' custody, the court or the Oklahoma Department of Human Services (OKDHS), as applicable, immediately, and in an ongoing manner for as long as a permanency plan of reunification is not achieved, considers concurrent permanency planning~~,~~ to ensure permanency for the child at the earliest opportunity. Identification of appropriate in-state and out-of-state placement should be made so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child.

(b) **Dispositional hearing purpose.** The purpose of the dispositional hearing is to determine the service needs of the child and family and custody of the child during the deprived case. The court considers all evidence that is helpful in determining the disposition that is in the child's best interests.

(1) At the hearing, the recommended treatment and service plan is presented to the court. The judge makes the final decision regarding whether the proposed treatment and service plan is accepted and whether a court order is issued regarding compliance with any or all recommendations. The family is ultimately responsible for only those recommendations that are court-ordered, per OAC 340:75-6-40.4.

(2) The dispositional order includes a statement informing the child's parent(s) that the consequences of non-compliance with the court's requirements may include, as applicable, loss of custody of the child or termination of the parent(s)' rights to the child. If reasonable efforts are required for the return of the child to the child's home, the parent(s) of the child must be given at least three months to correct conditions that led to the adjudication of the child, prior to requesting termination of parental rights.

(3) The dispositional order is reviewed by the court at least once every six months until:

(A) conditions that caused the child's adjudication are corrected;

(B) the parent(s)' rights to the child are terminated and a final adoption is decreed;

(C) permanent care and custody of the child is awarded to another person or a kinship guardian is granted; or

(D) the court terminates jurisdiction.

(c) **Special rules regarding custody orders.** Before placing custody of a child with the parent(s), legal guardian, legal custodian, or other suitable person, the court must consider the order of custody preference and the person's background, per Sections 21.1 and 7003-8.1 of Title 10 of the Oklahoma Statutes.

(1) **Order of custody preference.** Every effort is made to place a child with a member of the child's family in a safe and appropriate home. When a child is removed from the custodial parent and the court, in the child's best interests, is unable to release the child to the custodial parent, or, as the next priority preference, give placement to the noncustodial parent, custody is awarded, per Section 21.1 of Title 10 of the Oklahoma Statutes, to a:

(A) grandparent;

(B) person indicated by wishes of a deceased parent;

(C) relative of either parent;

(D) person in whose home the child has been living in a wholesome and stable environment; or

(E) any other person deemed by the court to be suitable. If the court determines custody of the child cannot be made according to the order of preference, the court must document the reasons in the court record.

(2) **Background considerations.** The court is prohibited from placing custody of a child with a person who is subject to the Oklahoma Sex ~~Offenders~~ Offender Registration Act or with a person who is married to or living with a person who is subject to the Oklahoma Sex ~~Offenders~~ Offender Registration Act.

(A) "Person" does not include a parent, legal guardian, or legal custodian of a child.

(B) Before awarding custody, the court must inquire whether the person has been previously convicted of any felony, relevant misdemeanor, or has such charges pending. A person requesting custody must respond to the court's inquiry by affidavit or sworn testimony and provide the court with an Oklahoma criminal history record.

(3) **Presumptions against placement.** Custody or visitation with a child is not granted to any person if the custody or visitation established will likely expose the child to a foreseeable risk of material harm. There is a rebuttable presumption that it is not in the child's best

interests to have custody or visitation granted to a person who:

(A) is or has been subject to, or resides with anyone who is subject to the Oklahoma Sex ~~Offenders~~ Offender Registration Act;

(B) was convicted of or resides with a person who was convicted of a crime of child abuse, neglect, or of a sexual nature;

(C) was convicted of or resides with a person who was convicted of domestic abuse within the past five years; or

(D) is found alcohol or drug dependent by clear and convincing evidence and expected in the near future to inflict or attempt to inflict serious bodily harm to self or others as a result of dependency.

(d) **Dispositional options.** Subject to the conditions and restrictions per OAC 340:75-1-18(c), the court makes one or more dispositional orders, including:

(1) placing the child under supervision by OKDHS in the child's own home with the child's custodial parent, legal guardian, or legal custodian from whom the child was removed, or placement with the noncustodial parent. The court may specify conduct to be followed by the parent and any other adult in the home. Supervision by OKDHS may not exceed one year unless extended by the court;

(2) placing the child with a suitable person, including a grandparent, relative, or other person specified in OAC 340:75-1-18(c)(1);

(3) placement of the child in the custody of a private institution or agency;

(4) ordering the child to receive counseling or other community-based services;

(5) committing the child to the custody of OKDHS;

(6) ordering the parent, legal guardian, legal custodian, stepparent, or other adult living in the home, or other person or agency receiving custody of the child, to follow any treatment and service plan prescribed by OKDHS;

(7) ordering a child's permanent care and custody transferred to another person upon the written consent of the parent(s) of the child, per OAC 340:75-1-18.2;

(8) ordering a child's permanent care and custody transferred to a kinship guardian, per OAC 340:75-1-18.3; and

(9) dismissing the petition and terminating its jurisdiction at any time for good cause when in the child's best interests.

(e) **Additional court determinations.** The court makes a determination whether:

(1) reasonable efforts:

(A) have been made to reunite the child with his or her family;

(B) are no longer feasible and are being made to secure an alternate permanent placement for the child;

(C) have been taken to finalize the permanent placement of the child including, if appropriate, through an interstate placement; or

(D) to reunite the child with the family are not required, per OAC 340:75-1-18.4;

(2) an out-of-home placement continues to be appropriate and in the child's best interests; and

(3) services provided to assist any youth, 16 years of age or older, in the transition from out-of-home care to independent living are appropriate.

(f) **Notification of hearing.** Prior written notice of the hearing, Form 04MP030E, Hearing Notification, is provided by OKDHS to the current foster parent of the child, any preadoptive parent or relative providing care for the child. A right to be heard is provided by the court to the current foster parent of the child, any preadoptive parent or relative providing care for the child. A right to be heard is not construed as requiring any foster parent, preadoptive parent, or relative be made a party to such action.

340:75-1-18.1. Permanency hearings

(a) **Permanency hearing.** State and federal law determine the requirements for permanency hearings. The judge conducts the hearing and makes determinations, per Section 7003-5.6d of Title 10 of the Oklahoma Statutes. Oklahoma Department of Human Services (OKDHS) Child Welfare (CW) workers are responsible for providing the court with the necessary information to conduct the hearing. A permanency hearing is held for any case regarding a child alleged or adjudicated deprived no later than:

(1) six months from the date of the child's placement in out-of-home care and every six months thereafter; and

(2) 30 days after a determination that reasonable efforts are not required and every six months thereafter.

(b) **Permanency report.**

(1) Prior to a permanency hearing, the CW worker prepares a report regarding the child for the court's review by contacting:

(A) the child's current foster parent;

(B) the parent(s) or parent(s)' attorney;

(C) a post adjudication review board (PARB) member;

(D) the child's guardian ad litem, if applicable; and

(E) the child's attorney.

(2) Information gathered from these persons is used by the CW worker to assist in the preparation of Form 04KI009E, Court Report, or 04KI014E, Individualized Service Plan (ISP) Progress Report, as applicable. The applicable court report includes, at a minimum, the:

(A) efforts and progress demonstrated by the child's parent(s) to complete an individual treatment and service plan;

(B) extent to which the parent(s) or legal guardian cooperated and used the services provided;

(C) status of the child, including the child's mental, physical, and emotional health;

(D) permanency plan for the child and, if the child is age 16 or older, the independent living plan; and

(E) in and out-of-state placement options considered for the child.

(c) **Notification of hearing and right to be heard.** Prior written notice of the hearing, Form 04MP030E, Hearing Notification, is provided by OKDHS to the current foster parent

of the child, any preadoptive parent or relative providing care for the child. A right to be heard is provided by the court. Such notice and right to be heard is not construed as requiring any foster parent, preadoptive parent, or relative be made a party to such action.

(d) **Court jurisdiction to finalize child's permanent plan.** The judge presiding over the deprived case also has authority to make final determination in the matter and preside over any separate action necessary to finalize a child's permanency plan, including an adoption, guardianship, or other custody proceeding.

340:75-1-18.4. Reasonable efforts not required

The court may make a determination that reasonable efforts to reunite the child with the family are not required. When any of the conditions in (1) through (3) exist, the Child Welfare (CW) worker provides documentation to assist the court in determining whether finding of reasonable efforts not required and immediate termination are appropriate. Reasonable efforts to provide for the return of the child to the child's home or preserve the family are not required if the court determines that the:

~~(1) parent(s), legal guardian(s), or custodian(s) has inflicted chronic abuse, neglect, or torture on the child, a sibling, or another child within the household where the child resides;~~

~~(2) child or a sibling:~~

~~(A) has been previously adjudicated deprived in this or another state due to sexual abuse or severe physical abuse;~~

~~(B) following adjudication, has been removed from the custody of the parent, legal guardian, or custodian;~~

~~(C) has been returned to the custody of the parent, legal guardian, or custodian from whom the child had originally been taken; and~~

~~(D) has been removed from the custody of the parent, legal guardian, or custodian of the child pursuant to the Oklahoma Children's Code due to sexual abuse or severe physical abuse.~~

~~(3) child is an abandoned infant;~~

~~(4) parent(s), legal guardian(s), or custodian(s) has been convicted in the murder of any child, aided or abetted, attempted, conspired, or solicited to commit murder of any child;~~

~~(5) parent(s), legal guardian(s), or custodian(s) has been convicted of voluntary manslaughter of another child of the parent(s), legal guardian(s), or custodian(s), or aided or abetted, attempted, conspired, or solicited to commit voluntary manslaughter of another child of the parent(s), legal guardian(s), or custodian(s) or another child within the household where the child resides;~~

~~(6) child has been adjudicated deprived as a result of a single incident of sexual abuse, severe neglect, or a felonious assault resulting in serious bodily injury to the child, a sibling, or a child within the household where the child resides, by a parent, legal guardian, or custodian of the child;~~

~~(7) child was conceived as a result of a rape. This applies only to the parent who committed the rape and whose child has been placed outside the home;~~

~~(8) parent(s) has deserted the child without good cause or excuse and such desertion continues for a period of at least six months immediately prior to the filing of a petition adjudicating the child deprived or a petition to terminate parental rights;~~

~~(9) parent(s) has willfully abandoned the child without regard to length of abandonment and the court finds that the abandonment itself constituted a serious danger to the health and safety of the child;~~

~~(10) child has resided out of the child's home under court supervision for a cumulative period of more than one year within a three year period following a deprived child adjudication;~~

~~(11) parent(s):~~

~~(A) failed to correct the conditions which led to the initial court intervention with any sibling of the child after the sibling had been removed from the parent and the court ordered a permanent plan of adoption, guardianship or other permanent out-of-home placement for any sibling of the child; or~~

~~(B) failed to make a reasonable effort to correct the problems that led to removal of any sibling of that child and the court ordered the parental rights over any sibling permanently severed.~~

~~(12) parent(s), legal guardian(s), or custodian(s) who is or has been subject to the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state or who has been convicted of a sexual felony offense pursuant to Section 1024.2, 1031, 1040.52, 1040.53, 1081, 1085, 1086, 1117, 1118, 1119, 1192, or 1192.1 of Title 21 of the Oklahoma Statutes; or~~

~~(13) parent(s), legal guardian(s) or custodian(s) of the child has a history of extensive, abusive, and chronic use of drugs or alcohol and has resisted treatment for this problem during a three-year period immediately prior to the filing of the deprived petition which brought that child to the court's attention.~~

(1) parent(s), legal guardian(s), or custodian(s) has committed specific acts of a criminal nature, including:

(A) conviction for the murder of any child, aided or abetted, attempted, conspired, or solicited to commit murder of any child;

(B) conviction for voluntary manslaughter of another child of the parent(s), legal guardian(s), or custodian(s), or aided or abetted, attempted, conspired, or solicited to commit voluntary manslaughter of another child of the parent(s), legal guardian(s), or custodian(s), or another child within the household where the child resides;

(C) conviction and subject to the registration requirements of the Oklahoma Sex Offender Registration Act or any similar act in any other state or who has been convicted of a sexual felony offense pursuant to Section 1024.2, 1031, 1040.52, 1040.53,

1081, 1085, 1086, 1117, 1118, 1119, 1192, or 1192.1 of Title 21 of the Oklahoma Statutes;

(D) child has been adjudicated deprived as a result of a single incident of sexual abuse, severe neglect, or a felonious assault resulting in serious bodily injury to the child, a sibling, or a child within the household where the child resides, by a parent, legal guardian, or custodian of the child; or

(E) child was conceived as a result of a rape. This applies only to the parent who committed the rape and whose child has been placed outside the home.

(2) parent(s) has committed certain acts of abandonment:

(A) parent(s) has abandoned a child under the age of two;

(B) parent(s) has abandoned the child without good cause or excuse and such abandonment continues for a period of at least six months immediately prior to the filing of a petition adjudicating the child deprived or a petition to terminate parental rights; or

(C) parent(s) has willfully abandoned the child without regard to age or length of abandonment and the court finds that the abandonment itself constituted a serious danger to the health and safety of the child.

(3) current or historical circumstances of the family's involvement with child welfare indicate the parent is unwilling or unable to safely care for the child, including:

(A) parent(s), legal guardian(s), or custodian(s) has inflicted chronic abuse, neglect, or torture on the child, a sibling, or another child within the household where the child resides;

(B) child or a sibling:

(i) has been previously adjudicated deprived in this or another state due to sexual abuse or severe physical abuse;

(ii) following adjudication, has been removed from the custody of the parent, legal guardian, or custodian;

(iii) has been returned to the custody of the parent, legal guardian, or custodian from whom the child had originally been taken; and

(iv) has been removed from the custody of the parent, legal guardian, or custodian of the child pursuant to the Oklahoma Children's Code due to sexual abuse or severe physical abuse.

(C) parent(s) failed to correct the conditions which led to the initial court intervention with any sibling of the child after the sibling had been removed from the parent and the court ordered a permanent plan of adoption, guardianship, or other permanent out-of-home placement for any sibling of the child;

(D) child has resided out of the child's home under court supervision for a cumulative period of more than one year within a three year period following a deprived child adjudication; or

(E) parent(s), legal guardian(s) or custodian(s) of the child has a history of extensive, abusive, and chronic use of drugs or alcohol and has resisted treatment for this problem during a three year period immediately prior to the filing of the deprived petition which brought that child to the court's attention.

PART 3. CHILD WELFARE CONFIDENTIALITY

340:75-1-44. Disclosure of client information and records without a court order

(a) **Authorized persons.** Client information or records are, upon request and with verification of the requester's credentials, disclosed without a court order to the persons or entities listed in this subsection.

(1) **Courts.** Information and records are disclosed to:

(A) the court having the child currently before it in any proceeding pursuant to Title 10 of the Oklahoma Statutes;

(B) any district court or tribal court to which the proceedings may be transferred;

(C) employees and officers of the court in the performance of their duties, including but not limited to the guardian ad litem appointed by the court;

(D) court-appointed special advocates;

(E) post-adjudication review boards; and

(F) any district court that has ordered a home study by the Oklahoma Department of Human Services (OKDHS) in a divorce, annulment, custody matter, guardianship, or any subsequent proceeding. OKDHS may limit disclosure to summaries or information directly necessary for the purposes of the disclosure.

(2) **OKDHS employees.** OKDHS employees acting in the course of their official duties performed in connection with the implementation or administration of any program for children, youth, and families. The administration of programs includes:

(A) any activity relating to the review, audit, or monitoring of Child Welfare (CW) service, program, or fiscal performance; and

(B) any activity in connection with potential or actual criminal, civil, or administrative proceedings relating to CW services and programs.

(3) **Office of Juvenile System Oversight employees.** Any employee of the Office of Juvenile System Oversight acting in the course of his or her official duties performed in connection with any investigation, inquiry, audit, or inspection conducted pursuant to Section 601.6 of Title 10 of the Oklahoma Statutes.

(4) **DHHS employees.** Any employee of the United States Department of Health and Human Services (DHHS) or the Comptroller General of the United States acting in the course of his or her official duties performed in connection with any investigation, inquiry, audit, or inspection conducted pursuant to federal law.

(5) **Office of the District Attorney employees.** Any employee of the Office of the District Attorney acting in the course of his or her official duties performed pursuant to Title 10 of the Oklahoma Statutes or in connection with

the prosecution of crimes against children or in the capacity of advisor to a grand jury.

(6) **Office of the Attorney General or United States Attorney employees.** Employees of the Office of the Attorney General or United States Attorney when acting in the course of their official duties performed pursuant to Section 7002-3.1 of Title 10 of the Oklahoma Statutes.

(7) **Attorneys.** The attorney representing a child who is the subject of a proceeding conducted pursuant to the provisions of Title 10 of the Oklahoma Statutes or the attorney representing a child in a domestic, guardianship, or juvenile action filed under Section 7115 of Title 10 of the Oklahoma Statutes.

(8) **Law enforcement officers.** Any law enforcement officer of Oklahoma or another state, with proper identification, who is:

(A) conducting an investigation of a report of known or suspected child abuse or neglect or crimes against children; or

(B) determining whether to place an alleged deprived child in protective custody.

(9) **Child protective services agency employees.** Employees of child protective services agencies in other states, with proper identification, who are:

(A) conducting an investigation of a report of known or suspected child abuse or neglect or crimes against children; or

(B) determining whether to place a child in protective custody.

(10) **Indian tribes.** Pursuant to the Federal Indian Child Welfare Act, Section 1901 et seq. of Title 25 of the United States Code, and the Oklahoma Indian Child Welfare Act, Section 40 et seq., of Title 10 of the Oklahoma Statutes, a federally recognized Indian tribe:

(A) with proper identification;

(B) in which the child who is the subject of the records filed with the court is a member or is eligible to become a member and is the biological child of a member of an Indian tribe; and

(C) who is performing the official duties of:

(i) investigating a report of known or suspected child abuse or neglect or crimes against children;

(ii) determining whether to place a child into protective custody;

(iii) providing or supervising services to or for the benefit of the child, including but not limited to protective, emergency, medical, and social services; or

(iv) the tribe, tribal court, or tribal CW program by:

(I) taking jurisdiction or intervening in the child's case; or

(II) being a party to the juvenile court proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

(11) **Employees of a statutorily established juvenile bureau.** Employees of a statutorily established juvenile bureau with proper identification in the course of their official duties pursuant to Sections 7305-1.1 et seq. of Title 10 of the Oklahoma Statutes.

(12) **Child Death Review Board.** The Child Death Review Board upon the Board's request pursuant to Section 1150.2 of Title 10 of the Oklahoma Statutes.

(13) **Physicians.** Any physician examining a child whom the physician suspects is a victim of child abuse or neglect.

(14) **Health care or mental health professionals.** Any health care or mental health professional involved in the evaluation or treatment of the child, the child's parents, legal guardian, foster parent, custodian, or other family members.

(15) **Multidisciplinary child abuse team.** Any multidisciplinary child abuse team designated by the administrator of OKDHS Field Operations Division or Children and Family Services Division as authorized to review confidential information to:

(A) investigate a report of known or suspected child abuse or neglect; or

(B) provide services to a child or family who is the subject of the report.

(16) **Public or private agency.** Any public or private agency or person authorized by OKDHS to diagnose or provide care, treatment, supervision, or other services to a child who is the subject of a report or record of child abuse or neglect. OKDHS may limit the disclosure of information and records to a summary of or the information directly necessary for the purpose of the disclosure.

(17) **OHCA.** Any employee of the Oklahoma Health Care Authority (OHCA) acting in the course of his or her official duties.

(18) **OJA.** Any employee of the Office of Juvenile Affairs (OJA) acting in the course of his or her official duties.

(19) **The Governor of Oklahoma.** The Governor or any person the Governor designates in writing.

(20) **Legislators.** Any member of the legislature approved in writing by the Speaker of the House or the President Pro Tempore of the Senate.

(21) **Persons or agencies engaging in research.** Persons or agencies engaging in research, provided that the person or agency:

(A) is employed by or under contract with the State of Oklahoma and is authorized by OKDHS to conduct the research; and

(B) ensures that:

(i) all documents containing identifying information are securely maintained to prohibit unauthorized access;

(ii) identifying information is not included in any document generated for the research; and

(iii) identifying information is deleted from documents when the research is completed.

(22) **Foster parents.** Information and records concerning the social, medical, psychological, or educational needs of a child currently placed with or being considered for placement with foster parents are disclosed to

the foster parents. Foster parents with whom a child is currently placed are provided a copy of the court-approved treatment and service plan and progress reports.

(23) **Schools.** A summary of or the information directly necessary for the school to know regarding a child enrolled in the school is disclosed upon the request for the information by the school. Any information disclosed to the school is kept confidential.

(24) **Department of Corrections employees.** An employee of any federal or state corrections or law enforcement agency in the performance of official duties concerning pre-sentence investigations or supervision of a parent of an alleged or adjudicated deprived child or the legal guardian, custodian, or any other adult member of the child's home who is responsible for the health, safety, or welfare of the child.

(25) **OCARPA.** Persons authorized by and in the manner provided by the Oklahoma Child Abuse Reporting and Prevention Act.

(26) **Adoptions.** Any person or agency authorized to receive any paper record pursuant to the Oklahoma Adoption Code pertaining to a child who is the subject of an adoption proceeding or relatives who are related to the child within the third degree of consanguinity.

(27) **Child support enforcement employees.** Employees of the Oklahoma or any other state child support enforcement agency in the performance of their official duties concerning the establishment of paternity or the establishment or enforcement of a child support order or other entitlement for the benefit of a child. Disclosure is limited to information related directly to the purpose of the disclosure.

(28) **Parent, legal guardian, or custodian.** A parent, legal guardian, or custodian of the child who is the subject of the records, provided that the records disclosed are limited to juvenile court records that are records filed with the court. All other agency records pertaining to or related to any alleged or adjudicated abuse or neglect of the child may not be inspected or disclosed.

(A) Information about the child is withheld from the parent only when a court order is in effect that prohibits the parent from obtaining information about the child.

(B) The parent may not inspect the case record, but information may be disclosed in accordance with this Section.

(C) If the child is removed from the child's home or placement, the child's parent(s) is informed of the child's general location, but not the specific address.

(D) With the foster parent's consent, the foster parent's name and address are disclosed when requested as part of the family reunification effort.

(b) **Disclosure when child is in need of treatment or supervision.** Any client information or record may be disclosed without a court order to any person or agency when the disclosure of confidential information is necessary to secure appropriate care, treatment, or supervision for a child and as may be necessary in conducting any investigation to determine whether a child is taken into protective custody or may otherwise come within the jurisdiction of the juvenile court. Disclosure pursuant to this subsection is limited to information reasonably necessary for the purpose of securing needed services or conducting an investigation.

(c) **Disclosure of court records.**

(1) Any record filed with the court by OKDHS, or obtained from the court and maintained by OKDHS, upon written request is disclosed without a court order to those persons identified in this Section and to:

(A) the child who is the subject of the record and the parents, guardian, legal custodian, or foster parent; and

(B) any public or private agency or individual having court-ordered custody or custody by virtue of OKDHS placement of the child who is the subject of the record.

(2) Any youth leaving out-of-home placement at or after the age of 18, or adult who was in OKDHS custody as a child, is entitled to information from the case record at no cost.

(d) **Disclosure limited.**

(1) Request for disclosure of information must be made in writing to OKDHS per OAC 340:75-1-46 and Sections 620.1 through 620.4 of Title 10 of the Oklahoma Statutes.

(2) Authorized persons receiving information are notified at the time of disclosure that the information remains confidential by law and may not be further disclosed.

(3) Information disclosed is limited to the specific information or record relevant to the need of the person offered or requesting confidential information.

(4) OKDHS does not disclose the identity or location of any person who has reported child abuse or neglect, unless specifically ordered by the court.

(e) **Media inquiries.** The confidentiality rules for inquiries govern case-specific information and requests from the public and the media. Inquiries may provide opportunities to discuss CW programs and services, in general, with the public or media representatives.

(f) **Disclosure in cases of death or near death of a child.** When the person responsible for the child is charged with committing a crime resulting in the child's death or near death, as defined in OAC 340:75-3-2, the best interests of the public are served by public disclosure of information concerning the investigation of the death or near death of the child and any other investigations concerning the child or other children living in the same household.

(1) Any disclosure of information does not identify or provide, other than the identity of the person criminally charged:

(A) an identifying description of any complainant or reporter of child abuse or neglect;

(B) the name of the child victim's siblings or other children living in the same household;

(C) the parent or other person responsible for the child; or

(D) any other member of the household.

(2) At any time ~~subsequent to~~ seven days ~~of~~ after the date the person responsible for the child is criminally charged, OKDHS, the Oklahoma Commission on Children and Youth, the district court clerk, the judge having jurisdiction over the case, or the district attorney may upon request, release to the public:

(A) confirmation that a report has been made concerning the alleged victim or other children living in the same household and whether an investigation has begun;

(B) confirmation as to whether previous reports were made and the dates and a summary of the previous reports, including:

(i) the dates and outcomes of any investigations or actions taken by OKDHS in response to any report of child abuse or neglect;

(ii) the specific recommendation made to the district attorney by OKDHS; and

(iii) any action taken by the district attorney after submission of any investigative report; and

(C) the dates of any judicial proceeding prior to the child's death or near death, including:

(i) specific recommendations made by OKDHS in any progress reports submitted to the court;

(ii) a summary of each participant's recommendations made at the judicial proceedings, including recommendations made at the hearing as they relate to the custody or placement of the child; and

(iii) the rulings of the court.

PART 10. OKLAHOMA CHILDREN'S SERVICES (OCS)

340:75-1-152.5. Request for extended OCS services

Generally, contracted services are concluded before the standard service period expires at ~~nine~~ six months for Comprehensive Home-Based Services (CHBS) and ~~six months for~~ Parent Aide Services (PAS).

(1) If the family is in crisis or new safety concerns arise as the case is terminating, an extension may be warranted.

(2) In open Permanency Planning cases, the request for extension is considered and discussed at CHBS case staffings as the final month of service approaches. If it is determined by the Child Welfare (CW) worker and contract case manager (CCM) that a service extension is warranted, and the decision is supported by the CW supervisor, a request for extension is made to the Oklahoma Children's Services (OCS) contract liaison.

(3) If an extension is warranted for voluntary cases, the OCS contract liaison and contract staff determine how much time is needed to accomplish the remaining goals.

SUBCHAPTER 6. PERMANENCY PLANNING

PART 1. GENERAL PROVISIONS

340:75-6-4. Definitions

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

"Alleged father" means *a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined*. The term does not include a presumed father. [10 O.S. § 7700-102]

"Alternate permanent plan" means a permanent living arrangement for a child in Oklahoma Department of Human Services (OKDHS) custody, other than reunification with the parent(s), and requires an assessment of the child's needs and a treatment and service plan that addresses the child's permanent plan, per OAC 340:75-6-31.

"Case plan" means the overall plan for the placement of the child and treatment needs of the child and the child's family, per OAC 340:75-6-40.

"Child Advocacy Center" means an entity that is an associate or full member in good standing of the National Children's Alliance.

"Close proximity" means placement of a child in OKDHS custody in the nearest geographical location to the child's own home that will meet the child's needs.

"Concurrent planning" means the provision of reunification services while simultaneously developing an alternative plan, in case reunification efforts fail or are no longer feasible.

"Family Team Meeting" means a structured, facilitated meeting among all possible family members and a case specific multidisciplinary team to collaboratively create plans that effectively address safety, permanency and well being; also referred to as family group decision making, family group conferencing, or team decision making.

"Independent Living program" means a program specifically designed to assist a child in the custody of OKDHS or an Indian tribe in developing and enhancing the skills and abilities necessary for successful adult living, per Part 13 of OAC 340:75-6.

"Initial Meeting" means a meeting between foster and birth parents, occurring within seven days of placement, for the purpose of holding a facilitated discussion regarding the needs of the child and to begin the process of creating a professional relationship between foster and birth parents.

"Kinship care" means full-time care of a child by a kinship relation.

"Kinship guardian" means a judicially created relationship between a child and a kinship relation of the child.

"Kinship relation" means relatives, stepparents, or other adults who have a bond or tie with the child and to whom have been ascribed a family relationship role with the child's parent(s) and the child.

"Least restrictive" means the placement of a child in OKDHS custody in the most home-like situation that meets the child's needs, per OAC 340:75-6-85.

"Movement" means changing a child in OKDHS custody from one living arrangement to another.

"Multidisciplinary team" means any team of three or more persons involved in the provision of services, treatment, or both, to a child and the child's family and who meet to assess the progress on the treatment and service plan.

"Out-of-home placement" means a living arrangement for a child other than the home of the child's parent(s), legal guardian, or legal custodian from whose custody the court has removed the child.

"Presumed father" means a man who, by operation of law under Section 7700-204 of Title 10 of the Oklahoma Statutes, is recognized as the father of a child until that status is rebutted or confirmed in a judicial proceeding. A man is presumed the father of a child if:

(A) he and the mother of the child are married to each other and the child is born during the marriage;

(B) he and the mother of the child were married to each other and the child is born within three hundred (300) days after the marriage is terminated by death, annulment, declaration of invalidity, dissolution of marriage, or after decree of separation;

(C) before the birth of the child, he and the mother of the child married each other in apparent compliance with law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within three hundred (300) days after its termination by death, annulment, declaration of invalidity, a decree of separation, or dissolution of marriage;

(D) after the birth of the child, he and the mother of the child married each other in apparent compliance with law, whether the marriage is or could be declared invalid, and he voluntarily asserted his paternity of the child; and:

(i) the assertion is in a record with the Oklahoma State Department of Health, Division of Vital Records or OKDHS;

(ii) he agreed to be and is named as the child's father on the child's birth certificate; or

(iii) he promised in a record to support the child as his own; or

(E) for the first two years of the child's life, he resided in the same household with the child and openly held out the child as his own.

"Reasonable efforts" means the reasonable exercise of diligence and care, with regard to a child who is in out-of-home placement or who is at imminent risk of harm, to:

(A) refer to, arrange for, or develop reasonable supportive and rehabilitative services for the child's family that are required both to prevent unnecessary placement of the child outside of the home and to foster, whenever appropriate, the safe reunification of the child with the child's own family; or

(B) place a child who cannot return home into a permanent placement.

"Residual parental rights" means those rights and responsibilities that remain with a parent after a transfer of legal custody of the child to another, other than in connection with an action for termination of parental rights, a relinquishment of parental rights, a consent to termination of parental rights, or an adoption. Residual parental rights:

(A) include, but are not limited to, the:

(i) right of visitation with the child;

(ii) right to determine the child's religious faith;

(iii) right to consent to the child's adoption;

(iv) duty to support the child and pay for the child's medical care;

(v) right to consent to termination of parental rights; and

(vi) right to permanently relinquish parental rights; and

(B) do not include the right to consent to the marriage of any child who is in OKDHS custody.

"Reunification" means a permanent plan for the child that involves the return of the child to any person who retains parental or legal rights to the child after removal for child abuse, neglect, or both, regardless of the custody arrangement prior to the child entering out-of-home care, per OAC 340:75-6-31.

"Risk" means the conditions in the child's home that put the child in danger of abuse, neglect, or both.

PART 5. PERMANENCY PLANNING SERVICES

340:75-6-31. Permanency planning for children in custody

(a) **Permanency planning.** Permanency planning begins immediately after a child is placed in Oklahoma Department of Human Services (OKDHS) custody and continues until the child is living in a permanent home and the Child Welfare (CW) case is closed. Once a child is removed from the custody of the child's parent(s), OKDHS immediately ~~begins~~ assesses the need for concurrent permanency planning so that permanency occurs at the earliest opportunity. Careful planning and consideration of the initial placement is given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child. The first permanency hearing is held as required by Section 7003-5.6d of Title 10 of the Oklahoma Statutes, and in accordance with OAC 340:75-1-18.1.

(1) The permanency plan preferences are:

(A) reunite the child with the child's family;

(B) terminate parental rights and place the child for adoption;

(C) establish guardianship; or

(D) provide a planned alternative ~~permanency~~ permanent placement.

(2) The purpose of permanency planning is to ensure the child has a plan that addresses the child's immediate and long-term needs for safety, well-being, and permanency.

(3) The CW worker informs the parent(s) of all of the alternatives from the outset to assist in choosing what is best for the child and parent(s).

(b) **Sources for determining the child's permanency plan.** Sources that assist the CW worker and supervisor in determining the best permanency plan for the child are:

(1) Form 04KI008E, Treatment Plan, or Form 04KI014E, Individualized Service Plan (ISP) Progress Report, containing current documentation of the parent(s)' progress, correspondence, consultations, or conferences with service and placement providers and professionals who interact with the child and parent(s);

(2) KIDS Contacts and Visits screens, containing pertinent information gained from visits and CW worker contacts with the child, parent(s), placement provider, and service providers;

(3) statements by the parent(s) that indicate the parent(s)' perceptions of:

(A) the child;

(B) parenting the child; and

(C) abuse and neglect issues that required corrections;

(4) statements by the child, obtained from the CW worker's monthly visitation with the child, placement provider, and service providers, regarding the parent(s)' and child's desire to reunite;

(5) staffing with the CW supervisor;

(6) recommendations by the post adjudication review board (PARB);

(7) conclusions or recommendations by a multidisciplinary staffing;

(8) consultation with Children and Family Services Division (CFSD) Adoption Section;

(9) the permanency planning review process, per OAC 340:75-6-31.1;

(10) coordination with tribal officials, for a child who falls under the Indian Child Welfare Act, to explore the tribe's interest and ability in providing for the child's permanency placement; and

(11) Form 04KI024E, Ongoing Safety Assessment, which reflects whether the level of risk has increased or decreased compared to the risk identified on Form 04KI023E, Safety Assessment, completed at the time of the investigation resulting in the child's removal.

(c) **Reunification.** In most situations, the initial permanency plan is to reunite the child with the family. These services are implemented until:

(1) the child is returned home, the family home has stabilized, and the court case is dismissed; or

(2) it is determined the conditions that necessitated intervention have not been corrected even though sufficient time and services have been provided.

(d) **Exceptions to reunification as the initial permanency plan.** Situations that require an alternative permanency plan to reunification as the initial permanency plan include:

(1) voluntary relinquishment of parental rights by all parents, natural, legal, presumed, and alleged;

(2) a Petition for Termination of parental rights is filed; or

(3) the court finds that reasonable efforts to reunite are not required, per OAC 340:75-1-18.4.

(e) **Reunification services.** Prior to reunification with a parent(s) who has contributed to the abuse, neglect, or both, of the child, a court order granting approval is required. In preparation for reunification and to provide to the court for consideration, the CW worker ensures the activities in (1) through (7) occur.

(1) Visitation is increased in frequency and duration with reduced supervision as described in OAC 340:75-6-30.

(2) The age appropriate child is made aware that the parent(s) has progressed in treatment to the point that reunification may occur, with the court's approval.

(3) Any issues involving the child's apprehensions, indecisiveness, or reluctance to return home are managed through family consultation, counseling, or both.

(4) Support services are utilized, including, but not limited to:

(A) temporary child care;

(B) community service providers;

(C) in-home services; and

(D) continued Temporary Assistance for Needy Families (TANF) eligibility, if applicable, per OAC 340:75-6-31.2.

(5) The CW worker informs the placement provider of the possibility of the child's reunification, provides information to the placement provider regarding the child, and includes the placement provider in permanency planning.

(6) The CW worker obtains supporting information from service providers about the degree of safety in the family home.

(7) The case is staffed with the CW supervisor and the requirements for the permanency planning review process are met, per OAC 340:75-6-31.1.

(f) **Criteria for reunification.** Indications for reunification are listed in (1) through (6).

(1) The risk that necessitated the intervention is minimized, a plan is in place to address the child's safety, and the plan is documented on Form 04KI024E.

(2) The parent(s) has complied with the treatment and service plan in such a manner that those conditions the court determines essential and fundamental to the child's health, safety, and welfare are met.

(3) Visitation is successful and has increased in length and frequency.

(4) The child has dealt with the feelings about the separation through counseling or some other effective means.

(5) The child is prepared for the reunion and received support in handling his or her feelings about returning home and separating from the current placement.

(6) The court gives prior approval of the return of the child to the parent(s)' home in accordance with OAC 340:75-6-31(e).

(g) **Reunification with the custodial parent.** When the child's parents do not live together, the priority for reunification relates primarily to the custodial parent; however, the noncustodial parent is assessed for the possibility of placement or custody, if appropriate, per OAC 340:75-1-13. Prior to dismissal of the court case, modification of a divorce decree

or other custody order may be required if the noncustodial parent is granted placement or custody of the child during the deprived case and the plan is for custody with the noncustodial parent after dismissal.

(h) **Indicators to proceed with ~~concurrent~~ an alternate permanency plan.** The conditions in (1) through (8) may be indicators of the need to expedite ~~the concurrent~~ an alternate permanency plan for the child.

(1) Completion of the treatment and service plan is irregular or sporadic, and has not eliminated the risk to the child's safety in the home, which may indicate a lack of interest in or commitment to reunification.

(2) Family visitation indicates the parent(s):

(A) lacks a close and positive relationship with the child;

(B) visits irregularly;

(C) frequently misses scheduled visits; or

(D) arrives late and leaves early.

(3) Indications of maltreatment during unsupervised visitations are reported. Examples of maltreatment include, but are not limited to, referrals regarding the reoccurrence of abuse or failure of the parent(s) to comply with any recommended treatment for the child.

(4) The child was returned to the home and removed again for safety reasons.

(5) The parent(s) receives negative reports from service providers or other entities, such as permanency planning review members, PARB members, and court-appointed special advocate (CASA).

(6) The length of time reunification has been the permanency plan~~, per OAC 340:75-6-47~~.

(7) The finding of the permanency hearing.

(8) A judicial finding that reasonable efforts to reunite are not required.

(i) **Adoption.** When a child cannot return safely to his or her own home, adoption is the preferred permanency plan in most cases. Consultation about adoptive placement for the child is initiated with the adoption specialist to discuss permanency planning options when reunification appears no longer feasible. This consultation is held regardless whether termination of parental rights has been recommended to the court.

(j) **Legal guardianship or permanent custodian.** A guardianship or permanent care and custody transferred to another person or kinship guardian may be the permanency plan for a child, per OAC 340:75-1-18.2 and 340:75-1-18.3, when a child is placed with a person who is reluctant to adopt due to extenuating circumstances.

(1) Guardianship or a permanent custodian is not preferred over adoption because this option does not provide the same level of family permanency.

(2) Subject to the availability of funds, financial assistance is available to the legal guardian or legal custodian, provided the eligibility requirements are met, per OAC 340:75-6-31.4.

(k) **Planned alternative ~~permanency~~ permanent placement.** A plan for planned alternative ~~permanency~~ permanent placement may be appropriate for a child when OKDHS documents a compelling reason for the court to determine that to return home, be placed for adoption, or guardianship is not in the child's best interests. Long-term out of home care is only an option when:

(1) all other permanency plans have been explored and are not feasible or in the child's best interests; or

(2) the child chooses not to be adopted after adoption has been thoroughly explored, explained, and the opportunities demonstrated.

(l) **Emancipation.** The federal definition of emancipation is the age at which the child reaches majority. In Oklahoma this age is 18.

PART 8. ROLE OF THE CHILD WELFARE WORKER

340:75-6-48. CW worker contacts with child, placement providers, parents, and service providers

(a) **Child and placement provider.** The purposes of a Child Welfare (CW) worker's contacts include, but are not limited to, maintaining the child's connections to his or her family, allowing the worker to evaluate the interactions, conditions, and services the child is receiving, particularly those in the home or in placement, and establishing and maintaining a teamwork relationship. CW worker contacts with the child in Oklahoma Department of Human Services (OKDHS) custody and the placement provider are provided in (1) through (7).

(1) **Foster family care and therapeutic foster care.**

(A) The CW worker in the county of placement has face-to-face contact with the child in the foster home within the first two weeks of each placement and a minimum of once every calendar month thereafter, with no more than 31 days between contacts. After initial contact, the CW worker must have contact with the child in the foster home no less than two times per quarter. The CW worker may complete one face-to-face contact per quarter in a location other than the foster home. Once the CW worker makes contact in an alternative location, the next two monthly contacts, at a minimum, must take place in the foster home. This applies to a child placed in:

(i) paid or non-paid kinship placement;

(ii) regular foster care;

(iii) contract foster care; and

(iv) therapeutic foster care.

(B) When the child is placed in a county other than the county of jurisdiction, the county of jurisdiction worker contacts monthly, either by phone, electronic mail, or in person, the CW worker in the county of placement to discuss and determine responsibility for any pertinent actions that either require follow-up or initiation in order to achieve the permanency plan for the child.

(C) Contacts increase in times of change and stress.

(D) If there is good cause to believe that a child needs to be interviewed privately during a contact in the foster home, for reasons other than abuse and neglect allegations, the foster parent provides a place in the home where the child can be interviewed outside the foster parent's presence.

(2) **Shelter.** A CW worker has face-to-face contact with the child at the shelter within 24 hours of the child's entry into the shelter and a minimum of once weekly while the child remains in the shelter. During the shelter stay, when the child's CW worker offices:

(A) within 60 miles of the shelter, the CW worker visits and provides any identified services to the child; or

(B) more than 60 miles from the shelter, the assigned shelter liaison visits and provides any identified services to the child. The child's CW worker contacts weekly, either by phone or in person, the shelter social worker while the child remains in shelter care, per OAC 340:75-10-10.

(3) **Emergency foster care.** When the child is placed in emergency foster care, the CW worker:

(A) has face-to-face contact with the child in the emergency foster home once every calendar month, with no more than 31 days between contacts; and

(B) attends weekly staffings with the emergency foster care contract agency.

(4) **Community-based residential care - non-OKDHS operated.** When the child is placed in a group home, ~~or~~ specialized community home, or Developmental Disabilities Services Division (DDSD) group home, the CW worker from the county of jurisdiction has face-to-face, private contact with the child and placement provider in the placement once every:

(A) calendar month, with no more than 31 days between contacts, when the child's placement is 30 miles or less from the county of jurisdiction; and

(B) 90 days when the child's placement is over 30 miles from the county of jurisdiction.

(i) The facility liaison contacts the child and placement provider during the months the CW worker does not have a face-to-face contact with the child.

(ii) Each calendar month the facility liaison completes the required contact with the child, the CW worker contacts the facility liaison to communicate any pertinent actions that either require initiation or follow-up in order to achieve the child's permanency plan.

(5) **Community-based residential care - OKDHS operated.** When the child is placed in an OKDHS operated group home, the CW worker has phone or personal contact with the child and group home worker once every calendar month, with no more than 31 days between contacts. The group home worker visits with the child and coordinates or completes any applicable permanency planning duties pertaining to the child.

(6) **Inpatient treatment - acute.** When a child is in acute inpatient treatment, face-to-face contact with the child at the placement location is provided by the facility liaison every calendar month, with no more than 31 days between contacts.

(A) Daily phone contact is maintained between the mental health facility and the child's CW worker during the first five working days of treatment.

(B) If the child remains in acute inpatient treatment in excess of five working days, the CW worker contacts the child's therapist or other mental health professional and facility liaison by phone a minimum of once a week and inquires about the child's progress in order to facilitate the discharge plan, per OAC 340:75-16.

(7) **Inpatient treatment - residential.** When the child is in inpatient residential treatment, face-to-face contact with the child at the placement location is provided by the facility liaison every calendar month, with no more than 31 days between contacts. Close contact is maintained between the liaison and the child's worker. In addition, the CW worker:

(A) has on-site interaction with the child every:

(i) calendar month, with no more than 31 days between contacts if the child's placement is 30 miles or less from the county of jurisdiction; and

(ii) 90 days if the child's placement is over 30 miles from the county of jurisdiction; and

(B) contacts the child's therapist or other mental health professional by phone every two weeks and inquires about the child's progress toward the discharge plan, per OAC 340:75-16.

(8) **Own home.**

(A) The CW worker has face-to-face private contact with the child a minimum of once every calendar month, with no more than 31 days between contacts. When the child~~:~~

~~(i)~~ initially returns to the parent(s) or is in the custody of the parent(s) in a supervision only case, the first three contacts are in the child's home. Contact location may then alternate between the home and any other location~~; and~~

~~(ii) has been returned to the parent(s) for at least six months and OKDHS has been ordered to continue legal custody, supervision, or both, the CW worker has one face-to-face private contact with the child within two weeks prior to each scheduled court hearing unless more frequent visits are ordered by the court in order to obtain updated information to provide to the court~~.

(B) Contacts are increased during times of change and stress.

(b) **Child - special case circumstances.** There are several special case circumstances when minimum required contacts with the child and placement provider may be allowed. The decision to allow the use of the minimum required contact rule requires CW supervisory approval. Reduced contact with the child and family is not considered when concerns are identified

that require more intensive contact. The circumstances and the minimum amount of required contact are detailed in (1) through (6).

(1) **Own home with CHBS.** When there is an open Comprehensive Home-Based Services (CHBS) case for the purpose of reunification of a child in the custody or supervision of OKDHS, the assigned contract case manager (CCM) has face-to-face, private contact with the child in the home per contract specifications and the CW worker has face-to-face private contact with the child in the home a minimum of once every 90 days. The CW worker contacts the CCM monthly, either by phone or in person, and inquires about case circumstances and identified needs.

(2) **DDSD placement.** When a child in the custody of OKDHS is in a Developmental Disabilities Services Division (DDSD) placement other than a group home, DDSD case management staff provides services to the child, per OAC 317:40-5-57. The CW worker:

(A) in the county of placement has face-to-face, private contact with the child in the home a minimum of once every 90 days;

(B) in the county of placement contacts, either by phone or in person, the DDSD case manager monthly and inquires about case circumstances and identified needs; and

(C) in the county of jurisdiction, when the child is placed outside the county of jurisdiction, contacts monthly, either by phone, electronic mail, or in person, the CW county of placement worker in order for both workers to:

(i) remain actively involved in placement and service planning for the child, through coordination and information sharing with the placement provider and DDSD case management staff; and

(ii) communicate any pertinent actions that require initiation or follow-up in order to achieve the permanency plan for the child.

(3) **Youth, 18 years or older, in voluntary placement.** The CW worker's contact with the youth, 18 years or older, in placement voluntarily, is determined jointly by the CW supervisor, CW worker, youth, and placement provider.

(A) A minimum of one face-to-face contact with the youth is required in the placement location every six months until case closure.

(B) During the months when the CW worker's contact with the youth is not in the provider's home, the worker contacts the youth and the provider by phone.

(4) **Custody with relative or another person with OKDHS supervision.** The CW worker has face-to-face contact with the child placed in the custody of a relative or another person with OKDHS supervision a minimum of once every calendar month, with no more than 31 days between contacts. The location of the worker's contact may alternate between contact in the home and any other location.

(5) **ICPC placement in residential treatment centers or group homes.** The CW worker has face-to-face contact with the child at least every 90 days in the facility when placed in Oklahoma and every six months when placed out-of-state through Interstate Compact on the Placement of Children (ICPC), per OAC 340:75-1-86.

(6) **Sunbeam Family Programs placement.** When the child in out-of-home placement is placed with Sunbeam Family Programs, the assigned Sunbeam Family Programs worker has face-to-face, private contact with the child in the home per contract specifications. This worker's contact meets the minimum monthly requirement for contact with the child. The CW worker maintains responsibility for coordination and completion of Form 04KI009E, Court Report, or 04KI014E, Individualized Service Plan (ISP) Progress Report, and attendance at any court hearing involving the child.

(7) **ICPC placement with parent, relative, or foster home.** The CW worker assures that an agency caseworker of the receiving State makes a face-to-face contact with the child in the parent, relative, or foster home no less frequently than every ~~six months~~ month and submits a report on the content of the contact.

(c) **Parents.** The CW worker has face-to-face contact with the parent(s) of the child within the first two weeks of the child's removal and a minimum of once every calendar month thereafter, with no more than 31 days between contacts. The CW supervisor and worker decide the location of the contact based upon case circumstances. The CW worker makes a home visit when assessing the home for reunification purposes. Exceptions to contacts with the parent(s) are made when:

(1) the child has been returned to or has never been removed from the parent(s)' custody and OKDHS has been ordered to provide supervision. The first three contacts by the CW worker are in the parent(s)' home. Contact location may then alternate between the home and any other location;

(2) there is an open CHBS case for the purpose of reunification. The CCM has contact with the parent(s) in the home per contract specifications and the CW worker has contact with the:

(A) parent(s) in the home a minimum of once every 90 days; and

(B) assigned CCM monthly, by phone or in person, to:

(i) staff the case;

(ii) discuss current case circumstances; and

(iii) assess the need for more intensive contact by the CW worker;

(3) the child has been returned for at least six months and OKDHS has been ordered to continue legal custody, supervision, or both. The CW worker has one face-to-face private contact with the parent(s) within two weeks prior to each scheduled court hearing unless more frequent visits are ordered by the court in order to obtain updated information to provide to the court. Contacts are increased during times of change and stress;

(4) the parent(s)' whereabouts are unknown;

(5) parental rights have been terminated; or

(6) other justified reasons exist that are documented in the case record.

(d) **Parents - special circumstances.** Phone contact with the parent(s) of the child is allowed in place of face-to-face contact when the parent(s) is incarcerated or living out-of-state. The CW county of jurisdiction worker is responsible for contact unless an exception applies. Appropriate exceptions include, but are not limited to, the:

(1) parent(s) has had no contact with the child and the child does not wish to have contact;

(2) parent(s) is incarcerated for an offense that resulted in the death penalty; or

(3) length of the parent(s)' incarceration is expected to surpass the date of the child obtaining the age of majority.

(e) **Service providers.** The CW worker has phone contact at least quarterly and no later than ten working days prior to each court hearing with any service provider for the child, parent(s), or family in order to obtain current information regarding the client's treatment status and obtain the service provider's recommendation regarding whether services are continued or terminated or additional services are necessary.

(f) **OCS providers.** The CW worker contacts the Oklahoma Children's Services (OCS) provider and:

(1) schedules, attends, and presents safety issues and needed changes at the CHBS intake staffing no later than 15 working days from the date the authorized referral is assigned;

(2) participates in monthly staffings, in person or by phone, with the assigned CCM or parent aide;

(3) reviews at least monthly the CCM or parent aide KIDS contacts and reports; and

(4) responds to critical incident reports, faxed or phoned in to the CW worker by the CCM or parent aide, that are risk alerts, per OAC 340:75-1-152.9.

340:75-6-50. Education

(a) **Developmental delays and behavioral problems.** A child who is abused or neglected and removed from the home may experience difficulties with developmental delays and behavioral or emotional problems. Frequently, specialized services and classes in school are required to meet the child's needs.

(b) **Child Welfare (CW) responsibilities.** The CW worker and placement provider coordinate to ensure educational services are provided to meet the child's needs. The CW worker assists the resource parent or placement provider in obtaining the child's school records and gaining school admission. Educational services for ~~custody~~ children in OKDHS custody include:

(1) locating former school records and providing them to the current school;

(2) enrolling the child in the appropriate grade;

(3) ensuring the child attends school regularly;

(4) encouraging the child to participate in extracurricular activities;

(5) advocating for educational testing and placement, when indicated; and

(6) follow up on the effectiveness of the services.

(c) **Individuals with Disabilities Education Act (IDEA).** A child with disabilities in Oklahoma has the statutory right to receive special education and related services from birth through 21 years of age. This is mandated by P.L.1101-476 and required by 70 O.S., Oklahoma School Code and the Education of All Handicapped Children Act, codified at 20 U.S.C. Sections 1400-1461, which specifies that all children with disabilities ages three years to 22 years receive specialized services to meet their needs. A child with disabilities has the following basic rights:

(1) Free Appropriate Public Education (FAPE);

(2) education in the least restrictive setting possible; and

(3) an Individualized Education Plan (IEP).

(d) **Parents' rights.** Parents and surrogate parents, including resource parents when acting ~~as surrogate parents~~ in place of the parents, have the right to examine their child's complete school records. In addition, the school system is obligated to provide notice to the parents whenever they refuse to take actions requested by the parents. The notice informs the parents of all procedures available to them under IDEA and must be written in their native tongue.

(e) **Parental participation.** The parents of ~~an~~ a child with a disability in OKDHS emergency or temporary custody ~~child with a disability~~ in out-of-home placement are encouraged and assisted to participate in the child's school arrangements, just as they would for a child who does not have a disability.

(f) ~~**Surrogate parents**~~ **Resource or surrogate parents acting in place of the parents.** When the parents are unable, unavailable, or unwilling to participate in the child's school arrangements, ~~a surrogate parent is appointed~~ foster parents may act in place of a parent to represent the child's educational interests. CW workers, and any other employee of a public agency ~~cannot serve as a surrogate parent~~ may not act in place of a parent or sign an IEP. Placement providers, who volunteer to serve as surrogate parents for children in placements other than foster care, are required to complete training through the Department of Education.

(g) **School requirements.** If a ~~custody~~ child in the custody of OKDHS attends school, whether public or private, the school must be accredited.

(1) **Private schools.** A ~~DHS custody~~ child in the custody of OKDHS is allowed to attend a private school if the school's philosophy is not contrary to the child's or the family's beliefs, customs, culture, values, and practices. The permission of the parent(s) is required for a ~~child(ren)~~ child in emergency or temporary custody to attend private school. Costs associated with private schooling are not paid by ~~the Department~~ OKDHS.

(2) **Home schooling.** Home schooling is an educational option for a child~~(ren)~~ in ~~DHS~~ OKDHS custody.

(3) **Non-resident students in public school.** In order for schools to receive educational costs incurred for non-resident students, a child whose parents live in a different school district from the child's placement, the information in (A) and (B) is provided to the school.

(A) names, address and county of residence of the child's parents, if the child is in emergency or temporary custody; and

(B) a copy of the court order showing the child is in ~~DHS~~ OKDHS custody, if requested.

PART 11. PERMANENCY PLANNING AND PLACEMENT SERVICES

340:75-6-85. Placement responsibilities

(a) **CW responsibilities.** The Child Welfare (CW) worker is responsible for the placement of a child who is removed from the home and placed in the custody of Oklahoma Department of Human Services (OKDHS) by law enforcement and court order.

(1) OKDHS follows the provisions of the Multiethnic Placement Act of 1994 and the Interethnic Adoption Provisions of 1996, per OAC 340:75-1-9, unless the court finds that the Indian Child Welfare Act applies to the child.

(2) When determining placement for a child who is removed from the custodial parent and placed in emergency OKDHS custody, priority is given to placement with the noncustodial parent unless such placement is not in the child's best interest.

(3) If OKDHS determines that placement with the noncustodial parent is not in the child's best interest, placement preference per Section 21.1 of Title 10 of the Oklahoma Statutes (10 O.S. § 21.1) is followed, such as:

(A) grandparent;

(B) person indicated by deceased parent;

(C) relative; and

(D) person in whose home the child has been living in a wholesome and stable environment, including, but not limited to, foster parent, or any other person deemed suitable by the court.

(4) If custody of the child cannot be made pursuant to 10 O.S. § 21.1, the reason for such determination is specified in the CW case record and provided to the court.

(5) Placement responsibility includes, per 10 O.S. § 7003-7.1 and OAC 340:75-6-85.1 through 340:75-6-85.4, ensuring the provision of:

(A) food;

(B) clothing;

(C) shelter;

(D) medical care;

(E) education;

(F) basic care;

(G) protection; and

(H) safety for the child.

(6) When the court determines it would be in the best interests of the child, the court may place the child in the legal custody of OKDHS. If the child is placed in OKDHS custody, the court may not direct OKDHS to place the child in a specific home or placement.

(b) **Appropriate placement.** OKDHS has the responsibility to determine whether a placement is an appropriate placement for a child in OKDHS custody, and to remove a child from a placement when it is in the child's best interest, per 10 O.S. § 7202.

(1) Every effort is made to place the child within his or her own community, school district, or both, in order to minimize the disruption for the child and ensure consistency with education. When a child is placed with a noncustodial parent, the noncustodial parent's home is considered the child's home community.

(2) The federal Indian Child Welfare Act (FICWA), 25 United States Code § 1915, Oklahoma Indian Child Welfare Act (OICWA), 10 O.S. § 40.6, and OAC 340:75-19-14 define placement preferences for Indian children.

(3) Consideration is given to the parent(s)' wishes regarding religious preference in the selection of a placement provider for the child.

(4) In order to promote stability and healthy growth of the child, it is the intent of OKDHS to limit the number of times a child is moved in out-of-home placement.

(A) If reunification is not feasible or is delayed, the placement made is the best available placement to provide permanency for the child.

(B) A request by a placement provider for immediate removal of a child is examined and assessed regarding whether the situation can be resolved in order to prevent disruption of the placement.

(5) If a prospective placement provider meets the minimum age required per OAC 340:75-7-12, OKDHS may not use the age of an otherwise eligible individual as a reason for denial of placement.

(c) **Prescribed standards.** All placements utilized by OKDHS are approved or licensed by specified procedures and meet prescribed standards. A child in the custody of OKDHS is not placed in a home, whether temporary or closely related, prior to the provider meeting standards per OAC 340:75. Placements must be safe, have sufficient space to allow the child privacy, and the provider must:

(1) support and participate in the child's permanency plan;

(2) adhere to OKDHS rules, such as not using physical discipline; and

(3) support the child's preferred religion and cultural choices.

(d) **Child's placement preference.** The child's statements and placement preferences are considered in making case decisions and are recorded on Form 04KI011E, Preadjudication Court Report, 04KI013E, Individualized Service Plan (ISP) Dispositional Report, 04KI009E, Court Report, or 04KI014E, Individualized Service Plan (ISP) Progress Report, when the child's age and developmental abilities allow. Since the child's preferences are not the sole consideration in determining placements and case plan decisions, preferences are evaluated regarding reasons or causes, degree of consistency, and implications for the permanency plan.

(e) **Court decisions regarding the child's placement.** The court does not place a child in the custody of a person who is subject to the Sex ~~Offenders~~ Offender Registration Act or a person living with someone subject to the Sex ~~Offenders~~ Offender Registration Act.

(1) "Person" does not include a parent, legal guardian, or legal custodian of the child.

(2) The court inquires, prior to placing custody of a child with the person, whether the person has been convicted of a felony or a relevant misdemeanor, including assault and battery, alcohol or drug offenses, domestic abuse, and other charges, or has any charges pending.

(3) Prior to the custody order being issued, the person requesting custody must present an affidavit or sworn testimony to the court and provide an Oklahoma criminal history background check, per 10 O.S. § 7003-8.1.

(f) **Foster home placements.** The provisions in (1) through (8) apply to placements in a paid or non-paid kinship, foster, or therapeutic foster home.

(1) **Preplacement visit.** Whenever possible, a preplacement visit for any child five years of age or older is held with the foster parent. The CW worker involved in the preplacement visit makes every effort to discuss with the child how the care, supervision, and guidance, including, but not limited to, parental substitute authority, will be achieved.

(2) **Foster parents may submit reports or present testimony in court.** Foster parents are entitled to provide the court with written reports or verbal testimony concerning the strengths, needs, behavior, important experiences, and relationships regarding the child, and may provide information requested by the court.

(3) **Foster parents informed of hearings.** The foster parent and child are given adequate prior written notice by the CW worker of all court hearings, including the date, time, place of hearing, name of judge, docket number, and the right to participate, per OAC 340:75-1-20. The foster parent is advised of the decisions made by the court regarding the child.

(4) **Foster parents preferred placement.** When a child re-enters out-of-home care and a relative or kinship placement is unavailable, the foster parent who previously cared for the child is the preferred placement option if the placement is in the child's best interest and the best interest of any other child in the foster home.

(5) **Foster parents informed of review meetings, permanency planning meetings, and special staffing.** Foster parents are advised of any local post adjudication review board meetings and special staffing, including scheduled permanency planning review meetings and the foster parent's right to participate.

(6) **Previous placement information.** Foster parents are provided the opportunity to contact and communicate with a previous foster parent for the child in order to share information about the child, if authorized by the previous foster parent. The foster parent is informed of the number of times a child has been moved and the reasons why.

(7) **Court-approved treatment and service plan.** Foster parents are provided a copy of the court-approved treatment and service plan.

(8) **Eligibility to adopt the child.** During any permanency hearing, if the court determines the child is to be placed for adoption and the child has resided with the foster parent for at least one year, the court must also consider the foster parent eligible to adopt the child unless there is an existing, loving, emotional bond with a relative of the child, by blood or marriage, who is willing, able, and eligible to adopt the child.

(g) **Respect for the foster parents or placement providers.** The CW worker treats the foster parent or placement provider as a professional member of the CW team and with dignity, respect, and consideration. The CW worker cooperates with the foster parent or placement provider to provide a mutual exchange of information, including, but not limited to:

(1) the child's physical and emotional development;

(2) significant statements and behaviors that may affect the child's permanency plan and progress;

(3) school events; and

(4) any other concern.

(h) **Foster parents' relationship with the child.** Foster parents provide the child's basic needs, such as food, clothing, and shelter, and nurturing, emotional support, and direction and guidance for the child's growth and development.

(1) The foster relationship may be recorded through photographs, Life Book, exchange of gifts, and contact after the placement is completed.

(2) Section 7206.1 of Title 10 of the Oklahoma Statutes and OAC 340:75-7-37 recognize foster parents as essential participants in the decisions related to the growth, development, care, protection, and treatment of a child placed in their home with whom they have established a familial relationship.

(i) **Least restrictive.** Placements are made in the least restrictive or most home-like setting that will meet the child's needs and provide for the child's safety, per OAC 340:75-6-85 through 340:75-6-85.4. Every effort is made to place a child with a member of the child's family in a safe and appropriate home. 10 O.S. § 7004-1.1 prohibits a child adjudicated deprived from being placed in an institution. The least to the most restrictive placements are:

(1) kinship home, which includes:

(A) relative home; and

(B) close family relationship;

(2) regular foster home;

(3) therapeutic foster home; and

(4) group home or residential child care facility.

(j) **Close proximity.** Placements are made consistent with the needs of the child in the nearest geographic proximity to the child's own home.

(1) Exceptions may be made when the child's needs and safety cannot be met in a placement closer to the child's own home.

(2) Arrangements for transportation are made to ensure regular family visits.

340:75-6-85.1. Child Welfare (CW) worker responsibilities to ~~DHS~~ children in OKDHS custody ~~children~~

The CW worker ensures needs in all areas of the child's life are identified, met, and addressed as would be provided by a nurturing, safe, and permanent home. This includes, but is not limited to, the following:

(1) daily nutritional meals;

(2) appropriate clothing;

(3) placement in a living environment, permanent or temporary, which serves the best interests of the child's moral, religious, emotional, mental, social, and physical well-being. Consideration is given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child; [OAC 340:75-6-85 through 340:75-6-85.4]

(4) education appropriate to the child's developmental age, special needs and individual talents and skills; [OAC 340:75-6-50]

(5) placement of the child with a provider who works as part of a team toward family reunification, independent living, or an alternate permanent plan for the child; [OAC 340:75-6-85 through 340:75-6-85.4]

(6) contact with the child's biological family, including siblings, as appropriate to the case plan goal; [OAC 340:75-6-30]

(7) private contact with the CW worker to discuss the child's family's progress on the treatment plan, permanency plans, placement, and other relevant issues; [OAC 340:75-6-48]

(8) private contact with the child's attorney and court-appointed special advocate (CASA); [OAC 340:75-6-48.1 and 340:75-6-48.2]

(9) routine, specialized and restorative medical attention as indicated; [OAC 340:75-6-88]

(10) placement in the least restrictive environment which meets the child's needs; [OAC 340:75-6-85(i)]

(11) an expeditious and effective permanency plan initiated upon a child coming into the CW system, immediate concurrent permanency planning ~~occurs~~ is considered; [OAC 340:75-6-31]

(12) access to a grievance procedure;

(13) birth verification; [OAC 340:75-13-9]

(14) application for any and all benefits for which the child is eligible, including a Social Security number; [OAC 340:75-13, Part 3]

(15) application for tribal enrollment, if applicable;

(16) preparation of a Life Book;

(17) services to prepare for adult life; [OAC 340:75-6, Part 13]

(18) maintenance of confidentiality of case information; [OAC 340:75-1-42 through 46]

(19) disclosure of pertinent case information with the court, the child's attorney, the placement provider, service providers, post adjudication review board (PARB), and court-appointed special advocate (CASA); [OAC 340:75-1-42 through 46] and

(20) preparation of the child for adoption when this is determined to be the child's case plan goal. [OAC 340:75-6-85.4]

340:75-6-85.6. Voluntary placement for a child born to a youth in custody

When a youth in Oklahoma Department of Human Services (OKDHS) custody gives birth to a child, the youth is allowed to make the decision regarding placement of the child. Voluntary placement is available for a child born to a youth in OKDHS custody if the child's safety can be ensured.

~~(1) If the plan is approved, the youth who is the parent signs Form 04FC007E, Authorization from Parent or Guardian for Voluntary Foster Family Home Placement and Medical Care of Child.~~

~~(2)~~ If the youth in custody who is the parent is unable or unwilling to participate in appropriate planning for the child, legal custody of the child is sought through the district attorney's office to give OKDHS authority to care and plan for the child.

340:75-6-88. Medical services to children in custody

(a) **Medical services for child in custody in out-of-home care.** The Child Welfare (CW) worker is responsible for ensuring, in coordination with the parent(s), when applicable, and placement provider, that a child in out-of-home care timely receives all needed routine and specialized medical care, including medical, dental, visual, and counseling needs.

(1) The worker's and placement provider's responsibilities for the child's services include:

(A) Early Periodic, Screening, Diagnosis and Treatment (EPSDT) screening according to the schedule of frequency or at a minimum an annual physical exam. In addition, the Oklahoma Department of Human Services (OKDHS) provides as soon as practicable after the filing of the petition an initial health screening for each child placed in OKDHS emergency custody, to identify any health problems that require immediate treatment, diagnose infections and communicable diseases, and evaluate injuries or other signs of abuse or neglect. The law requires OKDHS to provide medical care as necessary to preserve the child's health and protect the health of others in contact with the child; [10 O.S. § 7004-1.1]

(B) yearly mental health or developmental screening.; ~~The first screening is conducted no later than 90 days after the child's removal from the home.~~

(C) yearly dental exam for children over three years of age. Children under the age of three years receive dental services as needed;

(D) immunizations initiated and kept current;

(E) visual and hearing evaluation exams and corrective lenses or hearing aides, if indicated;

(F) outpatient or inpatient behavioral mental health treatment, when appropriate;

(G) physician's services, if the child is sick. This service is not considered a physical exam; and

(H) follow-up and referral services as recommended by a qualified professional.

(2) If requested by a placement provider, OKDHS provides examinations or tests regarding HIV on the child based on the Centers for Disease Control guidelines for time and frequency of testing. [10 O.S. § 7003-5.4]

(b) **Medical services for child in custody in parent(s)' home.** A child in OKDHS custody and living in the parent(s)' home may continue to be eligible to receive financial assistance

from the Oklahoma Health Care Authority for necessary medical services. The parent(s) of a child in temporary OKDHS custody who is living in his or her own home has the primary responsibility to provide and arrange for the medical needs of the child.

(c) **Notification of injury to the child that requires medical examination or treatment.** When medical attention for accidental or non-accidental injury is sought or required for a child in the legal custody of OKDHS in out-of-home placement, OKDHS notifies the:

(1) court of jurisdiction;
(2) child's parent(s);
(3) parent(s)' attorney;
(4) child's attorney;
(5) district attorney; and
(6) court-appointed special advocate.

SUBCHAPTER 7. FOSTER HOME CARE

PART 2. DEVELOPMENT OF RESOURCES

340:75-7-24. Kinship placements

(a) **Kinship care.** Kinship care is considered as the first option in providing care for the child requiring out-of-home placement, provided the child's needs are met and safety is reasonably ensured in the kinship placement. A kinship placement is assessed as a potential permanent placement for the child if reunification is not achieved. Kinship relationships do not require a blood relationship. The types of kinship relationships are identified in (1) through (6).

(1) **Related by blood.** Blood relatives considered as kinship, including half-blood, are:

(A) siblings;
(B) grandparents, including those denoted by prefixes of great and great-great;
(C) aunts and uncles, including those denoted by prefixes of great and great-great;
(D) nieces and nephews, including those denoted by prefixes of grand and great-grand; and
(E) cousins.

(2) **Related by marriage.** Per OAC 340:75-7-24(a)(1), relationships by marriage, whether common-law or ceremonial, including step-relations and even after the marriage is terminated by death or divorce, are considered kinship.

(3) **Related by adoption.** Relatives by adoption, per OAC 340:75-7-24(a)(1) and (2), are considered kinship.

(4) **Paternal relatives.** Paternal relatives, per OAC 340:75-7-24(a)(1) through (3), of children born out of wedlock, are considered kinship.

(5) **Related by emotional tie or bond.** An emotional tie or bond exists when a child or the child's parent acknowledges and accepts a person as part of the extended family or in the family's close network of friends and relationships. The family relationship role exists prior to the necessity for out-of-home placement of the child.

(6) **Noncustodial parent.** A child returned to or placed with a noncustodial parent or a parent whose rights were terminated is not a kinship placement. Biological parents are not kinship resources and are not eligible for foster care reimbursement.

(b) **Initial kinship placement.** A child may be placed in a kinship foster home prior to completion of the resource family assessment and pre-service training, provided:

(1) Form 04FC001E, Initial Kinship Placement Agreement, is completed and signed;
(2) Forms 04AF001E, Resource Family Assessment Application, and 04AD003E, Request for Background Check, are completed and signed, per OAC 340:75-7-15 and 340:75-7-18;
(3) an Oklahoma Department of Human Services (OKDHS) records search, including Child Welfare (CW) records, is completed and documented on Form 04AF007E, Records Check;
(4) Form 04AF004E, House Assessment, is completed and approved; and
(5) three personal references, only one of whom is a family member, are interviewed by phone.

(c) **Kinship reimbursement option.** The kinship applicant may opt for payment by OKDHS or a money payment for which the child is eligible instead of the foster home reimbursement.

(1) The foster home reimbursement is reduced by the amount of the money payment if the money payment is less than the foster home reimbursement. Refer to OAC 340:75-7-52.1 for Supplemental Security Income (SSI) or Social Security Administration (SSA) benefits received for a parent who is deceased or disabled.
(2) Payment may include:

(A) other financial resources, per OAC 340:75-13-28; or
(B) Temporary Assistance for Needy Families (TANF) benefits, per OAC 340:10-9.

(d) **Kinship requirement.** All kinship foster homes, paid or non-paid, must meet the same requirements as all other CW foster homes. Kinship foster homes, that have not been approved within the preceding five years, are entitled to receive:

(1) a one-time kinship start-up stipend to assist with initial expenditures for each child placed in the home for fourteen days; and
(2) a training stipend ~~as set in OKDHS Appendix C-20, Children and Family Services Division Rates Schedule, at~~ half after enrollment and half after completion of the pre-service training when a child has been placed in the home. The kinship start-up stipend and the training stipends are set out in OKDHS Appendix 04AX003E, Children and Family Services Division Rates Schedule. For paid kinship foster homes, reimbursements begin at the time requirements are met and are not retroactive.

SUBCHAPTER 8. THERAPEUTIC FOSTER CARE AND DEVELOPMENTAL DISABILITIES SERVICES

PART 1. THERAPEUTIC FOSTER CARE

340:75-8-6. General requirements for contracted therapeutic foster care placement providers

Contracted therapeutic foster care (TFC) placement providers must:

(1) maintain a written case record on each child that documents all services provided or obtained for the child while in placement;

(2) implement and review an individualized treatment plan for each child in placement, with documented input of the child's Child Welfare (CW) county of jurisdiction and county of placement worker, when different, according to the requirements set forth in the Oklahoma Department of Human Services (OKDHS) contract. The TFC contractor notifies the CW county of jurisdiction worker of the initial treatment plan meeting within five days of the child's placement;

(3) assume responsibility for maintenance of basic needs of each child placed;

(4) accept responsibility for a reasonable knowledge of the child's whereabouts at all times.

(A) When a child:

(i) is removed by anyone without authorization;

(ii) is taken into custody by law enforcement officials;

(iii) runs away; or

(iv) otherwise cannot be accounted for, the TFC contractors notify by phone the:

(I) CW county of jurisdiction and county of placement workers;

(II) contract liaison; and

(III) police.

(B) The contractor submits a written incident report to the child's CW county of jurisdiction worker describing the circumstances and files a copy in the child's case record;

(5) ensure the child receives all needed routine, specialized, and emergency medical care in a timely manner provided by a medical provider who accepts Medicaid payment.

(A) Prior consultation and consent from OKDHS and the child's parent(s) are required for emergency medical care. If the appropriate OKDHS authority cannot be contacted and the situation is life-threatening, the contractor has the authority to obtain emergency care and treatment, and notifies OKDHS at the earliest possible time.

(B) Prior consultation and consent from OKDHS and the child's parent(s) are required for any extraordinary medical procedure, such as surgery and invasive procedures.

(C) Prior consultation and consent from OKDHS and the child's parent(s) are not required for ordinary medical care. Provision of all medical or dental care is documented in the contractor's case record, including notification and attempts of notification in emergency situations, per OAC 340:75-13-65;

(6) notify the CW county of jurisdiction and county of placement workers and the contract liaison of any accidental or non-accidental injuries sustained by the child, per OAC 340:75-3-6.1 and 340:75-6-88;

(7) ensure that the religious and cultural observations of the child comply with OAC 340:75-6-49;

(8) develop and implement written policy and procedures regarding each child's access to legal counsel, court-appointed special advocate (CASA), OKDHS staff, phone, mail, and visitation, per OAC 340:75-6-30 and 340:75-11-237;

(9) develop and implement written policy and procedures regarding the maintenance and safeguarding of each child's clothing, personal items, property, and funds while placed;

(10) ensure the completion of a clothing and personal item inventory for each child entering and leaving placement and ensure each child leaves the placement with all of his or her clothing and personal items;

(11) obtain prior approval from the CW county of jurisdiction worker any time the child travels overnight outside of the county of placement or Oklahoma, per OAC 340:75-6-89;

(12) develop and implement written policy and procedures defining situations in which any person, other than family members previously approved by the CW county of jurisdiction worker, may take the child away from the placement on a day pass, not to exceed six hours, without supervision of the placement provider.

(A) The contractor does not allow a child any overnight visitation without the prior planning and documented written approval of the child's CW county of jurisdiction and county of placement workers. Overnight visitation with peers is considered time outside of the direct supervision of the TFC parent.

(i) The contractor is responsible for:

(I) completing an evaluation of the appropriateness of the overnight plan;

(II) submitting the overnight plan to the CW county of placement and county of jurisdiction workers and supervisors;

(III) securing written confirmation of the plan from the CW county of placement and county of jurisdiction workers and supervisors; and

(IV) documenting the results in the child's case.

(ii) CW county of placement and county of jurisdiction workers and supervisors are responsible for reviewing the overnight plan developed and submitted by the TFC contractor.

(B) The contractor does not secure any placement without the prior planning and documented written approval of the CW county of jurisdiction worker.

(C) If the contractor utilizes volunteers, the contractor's policy for approval and utilization of volunteers must, at a minimum, require criminal history and sex offender registry checks;

(13) develop and implement written policy and procedures that prohibit the utilization of any child in OKDHS custody for commercial purposes;

(14) submit written reports to the child's CW county of jurisdiction and county of placement workers describing the child's stay in placement, progress toward meeting the identified treatment plan, education, and medical care as requested for court hearings, and file a copy of the reports in the child's case record;

(15) develop and implement written policy and procedures for discipline that comply with OAC 340:75-7-38 and Sections 7004-3.2 and 7004-3.3 of Title 10 of the Oklahoma Statutes (10 O.S. § 7004-3.2 and 7004-3.3);

(16) ensure each employee and TFC parent is trained in an approved passive physical restraint curriculum defined in OAC 340:75-11-237;

(17) develop and implement written policy and procedures requiring the contractor, and all employees of the contractor, having reason to believe any child in placement has been subject to abuse or neglect to report the matter to the local OKDHS office or the child abuse hotline the same day of the incident. Failure to report is a misdemeanor pursuant to 10 O.S. § 7103;

(18) develop and implement written policy that prohibits possession or use of tobacco and tobacco products by any child in placement, and prohibits the use of tobacco or tobacco products by employees of the contractor in the presence of any child in placement;

(19) develop and implement written policy and a system for resolution of grievances by any child placed and by the TFC parent regarding the substance or application of any written or unwritten policy or rule, decision, act, or omission of the contractor, or employees or agents of the contractor, per OAC 340:2-3-49 and 340:2-3-50;

(20) afford the TFC parent the same rights as all foster parents in Oklahoma, per 10 O.S. § 7206.1;

(21) develop and implement written policy and procedures regarding communicable disease, per OAC 340:75-1, Part 9;

(22) develop and implement written policy and procedures that certify compliance in providing or continuing to provide a drug-free workplace in accordance with the Drug-Free Workplace Act of 1988;

(23) develop and implement written policy and procedures to maintain confidentiality with regard to children in placement in order to comply with OKDHS rules regarding the protection, use, and release of client information, per 10 O.S. § 7005-1.2 and Part 3 of OAC 340:75-1;

(24) plan and coordinate each child's discharge with the child's CW county of jurisdiction worker and county of placement worker, if different, and provide a minimum of 48 hours notice to discharge, except in medical or psychiatric emergency situations. On-site crises intervention must be provided prior to any emergency discharge. Contractor's recommendation for discharge is approved by the child's CW county of jurisdiction worker and county of placement worker, if different prior to the contractor's implementation of the discharge plan;

(25) submit a written discharge summary to the child's CW county of jurisdiction worker within 30 days of the child's discharge and file a copy in the child's case record. The discharge summary includes:

(A) a summary of treatment services;

(B) child's progress on the treatment plan;

(C) reason for discharge; and

(D) recommendations for future placements and services for the child's treatment needs;

(26) ensure that all staff comply with the:

(A) minimum licensing standards defined in the ~~Division of Child Care (DCC)~~ Oklahoma Child Care Services (OCCS) licensing standards for child-placing agencies; and

(B) staffing requirements per OKDHS Placement Agreement for TFC;

(27) develop and implement written policy and operating procedures regarding corrective discipline procedures for employees;

(28) ensure that the foster parent maintains a current Life Book for each child, regardless of the child's age, that documents the child's stay in care and provides continuity throughout the child's life, per OAC 340:75-7-37;

(29) develop and implement written policy and operating procedures to govern the foster parent's maintenance and administration of prescription and non-prescription medication to each child in placement, including transporting prescription and non-prescription medication when the child receives medication any place other than the TFC home, such as respite placements, family visits, and medication administered during school hours;

(30) develop written policy and operating procedures regarding the use of physical force for behavior management of any child placed.

(A) The use of mechanical restraints and the use of medication for behavior management are prohibited in the care and treatment of the child in OKDHS custody.

(B) The use of physical force is permitted when it is necessary for the protection of the child or others consistent with an approved passive physical restraint curriculum, such as when the child's behavior poses an immediate danger or threat of danger to self or others and other methods have been exhausted; and

(31) develop and implement written policy and operating procedures and supervision guidelines regarding use of solitary confinement and separation programs, such as restricting the child to his or her own room for a cooling off period. The duration of room restriction is specified at the time of assignment and is consistent with the child's chronological age, developmental level, behavioral, emotional, and medical needs, and availability of supervision.

340:75-8-7. Contracted therapeutic foster care services

(a) **Contractor rules.** Therapeutic foster care (TFC) contractors meet Oklahoma Health Care Authority (OHCA) rules as described in Parts 1, 3, and 5 of OAC 317:30-3 and Part 83 of OAC 317:30-5.

(b) **TFC services.** Contracted TFC services are based on the child's assessed needs and provided consistent with the goals and objectives of the child's treatment plan, and in accordance with OAC 317:30-5-742.2 include:

(1) individual therapy~~, a minimum of four 30 minute sessions per month for each child~~;

(2) family therapy~~, a minimum of four 30 minute sessions per month for each child~~. The TFC contractor:

(A) works with the parent(s) or placement provider to whom a child in TFC will be discharged;

(B) seeks to support and enhance the child's relationship with family members, including siblings;

(C) arranges for and encourages regular contact and visitation between the child and parent(s) and other family members; and

(D) engages the child's parent(s) and siblings in visitation and family therapy with the child, when the case plan is reunification. The TFC contractor provides consultation, support, and technical assistance to the TFC parent in the implementation of the child's treatment plan;

(3) group rehabilitative treatment~~, a minimum of two 30 minute sessions per month for each child~~. Group rehabilitative treatment services include education and supportive services, such as basic living skills, social skills redevelopment, interdependent living, self-care, lifestyle change, and recovery principles. Thirty minutes of individual therapy, family therapy, or both may be provided in lieu of one hour of group rehabilitative treatment;

(4) substance abuse or chemical dependency therapy, as needed, by a child with behavioral or emotional problems directly related to substance abuse~~, a minimum of two one hour sessions per month~~. A minimum of two hours of education and prevention therapy per 90-day period is required for a child who does not have behavioral or emotional problems directly related to substance abuse;

(5) basic living skills redevelopment~~, a minimum of 30 minutes per day per child~~ provided by the TFC parent;

(6) social skills redevelopment~~, a minimum of two 30 minute sessions per day per child~~ provided by the TFC parent;

(7) crisis behavior management and redirection services to ensure contract staff availability 24 hours a day, seven days a week for response to the residential placement provider during a placement crisis to stabilize the child's behavior and prevent placement disruption. Crisis behavior management and redirection services are consistent with the goals and objectives of the child's treatment plan;

(8) independent living (IL) services consistent with the IL program administered by Oklahoma Department of Human services (OKDHS), per Part 13 of OAC 340:75-6; and

(9) TFC agency developed policy and operating procedures that support collaboration with Child Welfare (CW) workers in the completion of the child's basic life skills assessment and the development of the child's IL plan.

(c) **Contractor requirements.** TFC contractors are required to provide services and meet requirements as identified in OAC 340:75 and the TFC contract. The contractor:

(1) seeks to ensure services provided to the youth age 16 to 21 assist in planning for the youth's future and enhancing individual strengths and abilities;

(2) ensures the youth in OKDHS custody applies for Medicaid upon his or her 18th birthday, if the youth remains in placement in voluntary care to complete his or her secondary education;

(3) ensures TFC staff comply with the qualifications in OHCA rules, per OAC 317:30-5-740 and 317:30-5-740.1;

(4) after initial placement of a child, provides clothing. Emergency funds for clothing may be accessed per OAC 340:75-13-45;

(5) ensures recreation, other than school and church attendance, is available through a wide range of activities to provide the child opportunities to pursue his or her talents, hobbies, or interests;

(6) supports all permanency planning efforts as identified in the child's Form 04KI008E, Treatment Plan, or Form 04KI012E, Individualized Service Plan (ISP);

(7) advocates for educational services in the community that best meet the needs of each child in compliance with Section 1-113 of Title 70 of the Oklahoma Statutes.

(A) The contractor:

(i) ensures timely school enrollment and provides the child's school with the information defined in the TFC contract at the time of enrollment; and

(ii) provides or arranges tutoring services in conjunction with the CW county of jurisdiction or county of placement worker.

(B) A child in TFC may:

(i) attend a private school accredited by Oklahoma. OKDHS does not pay the cost or related cost of private school education; and

(ii) be home schooled consistent with OAC 340:75-6-50. The TFC contractor consults with the Children and Family Services Division (CFSD) TFC programs manager and the involved CW field liaison in the decision to home school;

(8) completes a written incident report describing any extreme behavioral incident or major rule violation, including the contractor's response. The contractor provides a copy to the child's CW county of jurisdiction and placement workers and contract liaison, and files in the TFC record per contract specifications;

(9) complies with children's rights per OAC 340:75-11-237;

(10) complies with all general requirements per OAC 340:75-8-6;

(11) complies with all other requirements specified in the OKDHS contract;

(12) maintains documentation of the child's absent without leave (AWOL) and leave days defined in the contract and reports leave days on Form 04CB002E, CFSD Claim for Purchase of Residential Care; and

(13) submits Form 04CB002E for reimbursement to CFSD Administrative Services Unit. TFC contractors are reimbursed by:

(A) OHCA at a fixed daily rate for the provision of Medicaid services per OAC 317:30-5-743 and 317:30-5-744; and

(B) OKDHS at a fixed daily rate. The fixed daily rate is a blend of Title IV-E federal funds, per eligibility of each child served, and state funds.

340:75-8-8. Therapeutic foster care contractor requirements

(a) Therapeutic foster care (TFC) contractors:

(1) certify TFC homes according to rules established by Oklahoma Child Care Services (OCCS), Children and Family Services Division (CFSD), OAC 340:75-7-10 through 340:75-7-19, Oklahoma Health Care Authority (OHCA), and the requirements outlined in Oklahoma Department of Human Services (OKDHS) Placement Agreement for Residential Behavioral Management Services (RBMS) in TFC Settings;

(2) ensure the TFC home meets all certification requirements prior to the placement of a child in the home;

(3) engage in active recruitment of potential TFC parents who reflect the racial and ethnic diversity of children requiring placement, in compliance with the Multiethnic Placement Act of 1994 per OAC 340:75-7-10;

(4) continually evaluate the TFC parent's ability to provide TFC services and meet the needs of children receiving residential behavior management services in a foster care setting per OAC 340:75-7-94;

(5) ensure each TFC parent:

(A) is trained according to OCCS rules, OHCA rules per OAC 317:30-5-740.1, and CFSD resource family requirements including Bridge, and the requirements outlined in OKDHS Placement Agreement for RBMS in TFC Settings, prior to the placement of a child in the home;

(B) meets the requirements for in-service training as defined in the OKDHS contract; and

(C) has access to respite care per OAC 340:75-8-11;

(6) requests approval from the CFSD programs manager for TFC prior to accessing child care for a child five years of age or younger. OKDHS does not reimburse for child care for a child in TFC placement. The written request includes the:

(A) therapeutic justification in the child's treatment plan of daily child care outside of the child's TFC placement home;

(B) ability of child care staff or child care provider to meet the child's emotional and behavioral needs and all problems;

(C) availability of the TFC parent and TFC contractor staff to respond to behavioral needs and all problems at the child care environment;

(D) verification of child care center's licensing status, ratings, and adult:child ratio;

(E) planned length of use of child care as a service component of the child's treatment plan; and

(F) verification of TFC approval as a respite provider when an individual is providing child care;

(7) completes Form 04TF006E, Unsupervised Time Assessment, for children age six and older anytime an assessment is made that the child has the ability to have time away from the TFC parents' direct supervision. The assessment is documented as part of the child's ongoing TFC treatment plan;

(8) do not accept applications from any foster parent certified by any other agency, including all licensed child-placing agencies and OKDHS, without prior written approval of the current certifying TFC contractor and written approval of the CFSD programs manager for TFC;

(9) do not certify the TFC home unless at least one TFC parent is available to provide care for the child any time the child is not in school;

(10) do not certify an OKDHS employee as a TFC parent without prior written approval from the CFSD director or designee. The TFC contractor submits the written request to the CFSD programs manager for TFC. The review of the request is consistent with OAC 340:75-7-12;

(11) do not certify a TFC agency employee assigned to the TFC program without prior written approval from the CFSD programs manager for TFC. The request includes a copy of TFC agency policy regarding certification of employees of the TFC agency; and

(12) do not accept a foster parent application from a person licensed to provide child care services. Families are not approved as licensed family child care homes ~~or~~ and TFC homes at their home or in any other location.

(b) TFC homes may be jointly approved per OAC 340:75-7-19.

(1) Joint approval of a TFC home occurs following written approval between the TFC contractor and the other certifying agency.

(2) A TFC home certified by more than one agency may not accept new placements from either certifying agency without prior written agreement of all certifying agencies.

340:75-8-9. Placement procedures in therapeutic foster care homes

(a) Therapeutic foster care (TFC) is the least restrictive community-based residential care placement setting. Children in Oklahoma Department of Human Services (OKDHS) custody served in TFC placements are ages three through 18, male or female, and determined by the Oklahoma Health Care Authority (OHCA) authorized reviewer to meet the medical necessity criteria for TFC services, per OAC 317:30-5-741.

(1) The child has been diagnosed with any DSM-IV AXIS I primary diagnosis, with the exception of V codes

and adjustment disorders, accompanied by a detailed description of the symptoms supporting the diagnosis.

(2) The child's conditions are directly attributed to a mental illness or serious emotional disturbance as the primary need for professional attention.

(3) It has been determined by the reviewer that the child's current disabling symptoms cannot be or have not been managed in a less intensive treatment program.

(4) There is evidence that the child's presenting emotional or behavioral problems prohibit full integration in a family or home setting without the availability of 24-hour crisis response, behavior management, and intensive clinical interventions from professional staff, preventing the child from living in a traditional family home.

(5) The child is medically stable and not actively suicidal or homicidal and not in need of substance abuse detoxification services.

(b) The Child Welfare (CW) county of jurisdiction worker and supervisor assess each child's treatment needs per OAC 340:75-6-40 and 340:75-6-85. The CW worker seeks TFC placement when the:

(1) child's treatment needs can no longer be met in the child's own home, relative home, or traditional foster family setting;

(2) child does not require a group home placement; and

(3) child does not meet the medical necessity criteria for psychiatric treatment.

(c) A child whose behavior requires 24-hour awake supervision or who poses a danger in a family setting is not appropriate for TFC placement.

(d) The TFC contractor receives referrals for the placement of children from the area resource coordinator (ARC), per OAC 340:75-8-12.

(e) The TFC contractor requests a TFC authorization extension 30 days prior to the expiration of the authorized length of stay. If the OHCA authorized reviewer denies the extension of services, the TFC contractor provides written notification within one working day of the denial to the CW county of jurisdiction and county of placement workers, if different.

(f) TFC contractors ~~request written approval from the Children and Family Services (CFSD) programs manager for TFE~~ document in writing an assessment of the agency's ability to serve a child age five and under prior to ~~the~~ placement ~~of a child five years of age or younger~~. The written ~~request~~ documentation is maintained for onsite review during program audits and includes:

(1) the assessed diagnosis and proposed treatment plan for the child;

(2) the credentials, experience, and training of the TFC contractor's staff documenting the staff's ability to develop an age appropriate treatment plan and deliver clinical services to children, five years of age or younger, with emotional disturbances or behavioral disorders;

(3) other information as requested by the CFSD programs manager for TFC; and

(4) a description of the proposed TFC parent's:

(A) age, availability, experience, and skills;

(B) family structure;

(C) ability to meet the needs of a child, including a child age five or younger; and

(D) parenting responsibilities to other children in the home, children in foster care or therapeutic foster care placement, any adopted children, and any birth children.

(g) The TFC contractor does not place more than two children in a TFC home without prior written approval from the CFSD programs manager for TFC. The TFC contractor submits the written request that includes:

(1) primary treatment needs for the proposed placement of a third child and any subsequent children in the TFC home;

(2) availability, placement history, skills, completed or planned corrective action, and additional contractor supports of the TFC parent identified for proposed placement of a third child;

(3) risk factors considered and compelling reasons for proposed placement of a third child;

(4) documentation of TFC contractor contact with CW workers or supervisors for each child in the home, involved professionals, and each TFC family member, regarding the impact of the proposed placement of a third child;

(5) documentation of TFC contractor's review of any separated siblings placed in the proposed third placement; and

(6) other information as requested by the CFSD programs manager for TFC.

(h) Title XIX payments for TFC services are not made for TFC parents who move out of Oklahoma. TFC placements are made only in Oklahoma.

(i) A child may remain in TFC placement on a voluntary basis after age 18, per OAC 340:75-6-115.9.

SUBCHAPTER 11. CHILD WELFARE COMMUNITY-BASED RESIDENTIAL CARE

PART 17. CONTRACTED COMMUNITY-BASED RESIDENTIAL CARE PROVIDERS

340:75-11-233.1. Placement services

(a) The purpose of Children and Family Services Division (CFSD) Placement Section is to:

(1) ensure that children in Oklahoma Department of Human Services (OKDHS) custody are placed in the least restrictive community-based residential care (CBRC) placement that most appropriately meets their treatment needs;

(2) ensure equal access to CBRC placement resources by children in OKDHS custody statewide; and

(3) maintain the waiting list of children in OKDHS custody who need CBRC placements when the need for CBRC placements exceeds the availability of CBRC placements.

(b) In order to respond expediently to the volume of placement requests for children, the Placement Section:

(1) completes a daily review of children's cases received in the CFSD Residential, Placement, and Behavioral Health Services Unit KIDS In-box;

(2) assesses each placement request and notifies the Child Welfare (CW) county of jurisdiction worker and supervisor of secondary case assignment to the Placement Section;

(3) completes a daily review of the facility bed vacancy reports submitted daily by CW contract liaisons and CBRC providers;

(4) as beds in CBRC facilities become vacant, evaluates the treatment and behavioral needs of children on the waiting list and identifies each child for referral to the appropriate CBRC placement vacancy;

(5) when an appropriate CBRC facility is identified, makes the referral for placement to the CW worker assigned as the liaison to the designated CBRC facility and notifies the child's CW county of jurisdiction worker and supervisor of the referral, and, when requested, the county director and CW field liaison (CWFL);

(6) documents, on KIDS Placement Authorization screen, information used in reaching the placement recommendation and documents compliance with applicable laws and policies;

(7) end-dates the secondary case assignment and completes documentation related to the placement episode when notified by the contract liaison that the child is placed; and

(8) maintains a working placement case record until the end of the year the child reaches majority.

(c) Placement of children prior to adjudication only occurs as described in OAC 340:75-11-233.

(d) ~~Placement~~ Admission of a child ~~in~~ to an acute psychiatric facility or a psychiatric residential treatment center (RTC) is made by the CW county of jurisdiction worker following the ~~Oklahoma Foundation for Medical Quality (OFMQ)~~ mental health gatekeeping referral process ~~and commitment process defined in OAC 340:75-16~~.

(1) The Placement Section provides consultation to the child's CW county of jurisdiction worker and supervisor regarding the identification of appropriate placement resources for a child discharged from inpatient psychiatric care.

(2) Discharge planning and the identification of an appropriate placement following discharge from inpatient psychiatric care begins when the child enters inpatient psychiatric care or immediately following commitment for monitoring purposes.

(e) A child who is adjudicated deprived and in need of supervision (INS) or delinquent is placed in accordance with OAC 340:75-6-46.

PART 19. RESIDENTIAL DIAGNOSTIC AND EVALUATION SERVICES

340:75-11-250. Contracted residential diagnostic and evaluation services

(a) A residential diagnostic and evaluation facility that offers a 20-day admission program for children in Oklahoma Department of Human Services (OKDHS) custody, six to 18 years of age, is available to provide a comprehensive assessment of each child admitted. The comprehensive evaluation includes:

(1) a psychological evaluation that addresses the child's:

(A) level of emotional development;

(B) capacity for self-control;

(C) need for supervision;

(D) specific therapy needs; and

(E) risk to self, others, and the community;

(2) a family and social history evaluation;

(3) an educational evaluation;

(4) a substance abuse evaluation;

(5) a behavioral evaluation;

(6) a speech and hearing evaluation;

(7) a recreational evaluation; and

(8) a medical evaluation, including psychiatric if appropriate.

(b) All evaluations are completed by professional staff who are licensed or credentialed in their respective professions. The contractor employs such staff or contracts for professional services.

(c) The time frame for the completion of the comprehensive assessment of the child is limited to calendar 20 days.

(1) Upon the child's admission, an interdisciplinary staffing that includes the Child Welfare (CW) county of jurisdiction worker is scheduled to be held prior to the 20th day to produce the summary of treatment and placement recommendations.

(2) The provider submits this summary and the individual evaluation reports to the child's CW county of jurisdiction worker and the contract liaison.

(d) Psychological or psychiatric intervention is available for children through direct contact with a psychologist or psychiatric consultant. Individual counseling or therapy is provided, as needed, for each child by the contractor's designated social work or counseling staff.

(e) The provider:

(1) receives referrals of children from the contract liaison;

(2) considers the age, gender, and presenting behaviors of each child in determining which children share bedrooms to ensure the safety of all children;

(3) provides a 12-month school on campus. Curriculum provided in the educational setting conforms to the course of instruction approved by Oklahoma State Department of Education. The contractor ensures that educational opportunities are available that meet the child's special educational requirements;

(4) provides clothing, after initial placement of a child. Emergency funds for clothing may be accessed per OAC 340:75-13-45;

(5) provides 24-hour on-call and on-site crisis intervention and behavior management services to each child, as

needed. Emergency or crisis intervention services include face-to-face encounters with the child to resolve acute emotional dysfunction by providing intervention resolution and stabilizing functions through triage screening, planning, and documentation;

(6) provides recreation opportunities, directed by a recreation therapist, for each child on a daily basis through a wide range of planned activities, both indoors and outdoors;

(7) completes a written incident report describing any extreme behavioral incident or major rule violation and includes the contractor's response to the incident. The incident report is maintained in the child's case record and included in the child's behavioral evaluation;

(8) meets the staffing guidelines defined in the OKDHS contract;

(9) complies with children's rights per OAC 340:75-11-237;

(10) complies with all general requirements per OAC 340:75-11-240;

(11) complies with Part 105 of OAC 317:30-5 for residential behavior management services in group settings and non-secure diagnostic and evaluation centers;

(12) is reimbursed by OKDHS at a fixed daily rate. The fixed daily rate is a blend of Title IV-E and Title XIX federal funds, per eligibility of each child served, and state funds; and

(13) submits Form 04CB002E, (DCYS-S-2) CFSD Claim for Purchase of Residential Care, for reimbursement to the Children and Family Services Division Administrative Services Unit.

PART 22. SUBSTANCE ABUSE TREATMENT SERVICES

340:75-11-275. Substance abuse treatment services

(a) Each substance abuse treatment services provider serves a specially defined target population of children both in the custody of Oklahoma Department of Human Services (OKDHS) and those not in the custody of OKDHS.

(1) Children served:

(A) are ages 13 to 17.11;

(B) vary by gender and behaviors exhibited;

(C) require 24-hour awake supervision; and

(D) are voluntary placements and must follow the substance abuse treatment program and complete the 90 day treatment program.

(2) The provider provides or obtains:

(A) substance abuse treatment services;

(B) counseling by a licensed clinical social worker; and

(C) a completed Addiction Severity Index (ASI) along with an evaluation on each youth.

(b) The substance abuse treatment services provider must comply with:

(1) children's rights per OAC 340:75-11-237;

(2) all general requirements per OAC 340:75-11-240; and

(3) any other requirements in the OKDHS contract.

PART 23. SPECIALIZED COMMUNITY HOMES

340:75-11-289. Specialized community home contract reimbursement

(a) **Monthly allotment.** Specialized community home (SCH) contractors are reimbursed at an annual fixed rate of reimbursement, paid in 12 equal monthly allotments. The SCH contractor submits a monthly claim for the monthly allotment on Form ~~DCYS-S-2~~ 04CB002E, CFSD Claim for Purchase of Residential Care, to Children and Family Services Division (CFSD) Administrative Services Unit on the first day of each month.

(b) **Boarding home reimbursement.** In addition to monthly allotment reimbursement, the SCH contractor is reimbursed at the daily OKDHS foster care reimbursement rate, per actual number of days in each month, according to the child's age. The SCH contractor signs the Fixed Rate Foster Home Contract for Specialized Community Homes at the same time the SCH contract is initiated, and on a yearly basis thereafter. If the new SCH contractor is already an OKDHS approved foster home, the Fixed Rate Foster Home Contract is cancelled and a new Fixed Rate Foster Home Contract for Specialized Community Homes is initiated with the same effective date of the SCH contract.

(1) SCH contractors are reimbursed for up to a total of ten calendar days for planned treatment leave per child, per child placement year, for example, for pre-placement visitation or family reunification.

(2) A child's placement year begins on the date a child is placed in the home and terminates 12 months later or on the date of discharge within that 12-month period. If a child is discharged, then readmitted to the same or another facility, a new child placement year begins.

(3) SCH contractors are reimbursed for a child who is absent without leave (AWOL) a total of five calendar days per child, per child placement year, when there is reasonable expectation the child will return to the SCH from AWOL status.

(4) SCH contractors are reimbursed if a child is hospitalized for a period not to exceed ten calendar days if the contractor maintains daily contact with the child and the child returns to the SCH upon discharge.

(5) The SCH contract liaison and supervisor approves all reimbursement for planned leave, hospital leave, or AWOL status.

(6) SCH contractors are not eligible for difficulty of care payments for children in SCH placements.

PART 25. NON-FUNDED AND FUNDED CONTRACTED LEVEL B PLACEMENTS

340:75-11-300. Non-funded and funded contracted Level B placements

(a) Non-funded Level B placements are provided by faith-based residential agencies that provide the equivalent to foster home placements for children requiring a home-like environment with a full-time house parent couple.

(b) Funded contracted Level B placements are provided by the Murrow Indian Children's Home and meet the placement preferences required by the Indian Child Welfare Act (ICWA).

(c) Non-funded and funded contracted Level B services include:

(1) group treatment for each child, as needed, that focuses on maintenance issues and daily living matters;

(2) individual treatment for each child, as needed;

(3) active teaching and redevelopment of the child's basic living and social skills, both on-site and in the community. At minimum, the focus is on the restoration of skills for:

(A) personal health and hygiene;

(B) maintenance of the living environment, including food preparation;

(C) money management;

(D) job skills readiness, acquisition, and retention;

(E) community awareness and mobility, including the use of community resources; and

(F) socialization skills and techniques, including communication;

(4) developing and implementing policy and procedures for delivery of independent living (IL) skills training to youth, using an approved curriculum for teaching IL skills;

(5) assisting in the provision of federally mandated IL services that include coordinating with the Child Welfare (CW) county of jurisdiction worker to ensure:

(A) the Daniel Memorial or Ansell-Casey Life Skills assessment is completed on each youth age 16 or older and implementing the IL plan produced by this assessment; and

(B) each youth age 15.5 or older attends one community contractor IL seminar each year;

(6) ensuring the youth applies for Medicaid upon his or her 18th birthday, if the youth remains in placement in voluntary care to complete his or her secondary education per OAC 340:75-6-115.9; and

(7) providing 24-hour on-call and on-site crisis intervention and behavior management services to each child, as needed.

(d) Contracted Level B placements are provided in a setting licensed as a child-placing agency group home or residential child care facility that is not located in a hospital, either medical or psychiatric, or a psychiatric residential treatment center.

(e) The contractor:

(1) does not provide 24-hour awake supervision of children;

(2) may provide clothing for the child in Oklahoma Department of Human Services (OKDHS) custody. Emergency clothing authorizations may be accessed per OAC 340:75-13-45;

(3) completes a written incident report describing any extreme behavioral incident or major rule violation, including the contractor's response, submits the original to the Children and Family Services Division (CFSD) Community-Based Residential Services programs manager and a copy to the child's CW county of jurisdiction worker, and files a copy in the child's case record;

(4) meets the staffing guidelines defined in the OKDHS contract;

(5) complies with children's rights per OAC 340:75-11-237;

(6) complies with all general requirements per OAC 340:75-11-240;

(7) provides placements of children at no cost to OKDHS for non-funded contracted Level B services;

(8) maintains documentation of each child's absent without leave (AWOL) and leave days set forth in the funded Level B contract and reports leave days on Form ~~DCYS-S-2~~ 04CB002E, CFSD Claim for Purchase of Residential care; and

(9) is reimbursed by OKDHS at a fixed daily rate for funded Level B services. The fixed daily rate is a blend of Title IV-E funds, per eligibility of each child served, and state funds. The contractor submits Form ~~DCYS-S-2~~ 04CB002E for reimbursement to CFSD Administrative Services Unit.

PART 27. RESIDENTIAL MATERNITY SERVICES

340:75-11-320. Non-funded and funded contracted residential maternity services placements

(a) Contracted residential maternity services placements provide residential care and treatment for pregnant youth in Oklahoma Department of Human Services (OKDHS) custody, regardless of age. The youth may return to the residential maternity services placement postpartum not to exceed 45 days, except with the approval of the Children and Family Services Division (CFSD) Community-Based Residential Services (CBRC) programs manager.

(b) Children served are pregnant youth in OKDHS custody, regardless of age, who require a supportive living environment with direction and guidance but are not appropriate for foster family care due to difficulty in sustaining relationships with parental figures.

(c) Youth not appropriate for placement are violent, aggressive, destructive to self, others, or property, engage in criminal or delinquent behaviors, or require intensive supervision and services.

(d) Non-funded and funded contracted residential maternity services for pregnant youth include:

(1) group therapy, as needed, that focuses on maintenance issues and daily living matters;

(2) individual treatment, as needed;

(3) parenting skills training to enhance the youth's capability to function as a parent. A specific plan for the

delivery of those services is delineated in the contractor's written policy;

(4) active teaching and redevelopment of the youth's basic living and social skills. At minimum, the focus is on the restoration of skills for:

(A) personal health and hygiene;

(B) maintenance of the living environment, including food preparation;

(C) money management;

(D) job skills readiness, acquisition, and retention;

(E) community awareness and mobility, including the use of community resources; and

(F) socialization skills and techniques, including communication;

(5) developing and implementing policy and procedures for the delivery of independent living (IL) skills training, using an approved curriculum for teaching IL skills;

(6) assisting in the provision of federally mandated IL services that include coordinating with the Child Welfare (CW) county of jurisdiction worker to ensure:

(A) the Daniel Memorial or Ansell-Casey Life Skills assessment is completed on each youth age 16 or older and implementing the IL plan produced by this assessment; and

(B) each youth age 15.5 or older attends one community contractor IL seminar each year;

(7) ensuring the youth applies for Medicaid upon her 18th birthday, if the youth remains in placement in voluntary care to complete her secondary education per OAC 340:75-6-115.9;

(8) providing 24-hour on-call and on-site crisis intervention and behavior management services, as needed;

(9) arranging prenatal, delivery, and postpartum care for the youth by a local physician or clinic; and

(10) ensuring a licensed dietitian or nutritionist is on staff or available as a consultant in menu planning that meets the United States Department of Agriculture (USDA) or Oklahoma State Department of Health standards for pregnant teenagers or adult women.

(e) The youth is eligible for an emergency clothing authorization for maternity clothing after initial placement in a funded maternity residential services placement and quarterly emergency clothing authorizations when the youth is placed in a non-funded maternity residential services placement, per OAC 340:75-13-45.

(f) When the youth is in the Home Bound educational program, the contractor provides additional educational services at a minimum of two hours per day during the school term.

(g) Contracted residential maternity services placements are provided in a setting licensed as a child-placing agency group home or residential child care facility that is not located in a hospital, either medical or psychiatric, or a psychiatric residential treatment center.

(h) The contractor:

(1) does not provide 24-hour awake supervision of children in placement;

(2) completes a written incident report describing any extreme behavioral incident or major rule violation, including the contractor's response, submits the original to the CBRC programs manager and a copy to the child's CW county of jurisdiction worker, and files a copy in the child's case record;

(3) meets the staffing guidelines defined in the OKDHS contract;

(4) complies with children's rights per OAC 340:75-11-237;

(5) complies with all general requirements per OAC 340:75-11-240;

(6) maintains documentation for funded programs of each child's absent without leave (AWOL) and leave days set forth in the contract and reports leave days on Form ~~DCYS-S-2~~ 04CB002E, CFSD Claim for Purchase of Residential Care;

(7) is reimbursed by OKDHS for funded programs at a fixed daily rate, based upon actual utilization. The fixed daily rate is a blend of Title IV-E funds, per eligibility of each child served, and state funds. The contractor submits Form ~~DCYS-S-2~~ 04CB002E for reimbursement to CFSD Administrative Services Unit; and

(8) receives referrals for the placement of youth from the contract liaison.

340:75-11-321. Placements for infants of youth in non-funded and funded contracted residential maternity services

(a) Infants served are the newborn infants whose mothers are in Oklahoma Department of Human Services (OKDHS) custody and served in the residential maternity services placement.

(b) The infant is accompanied in care by his or her mother and the length of stay does not exceed 45 days, except with the approval of the Children and Family Services Division (CFSD) Community-Based Residential Services programs manager.

(c) The contractor provides residential maternity services for infants in care that include:

(1) a separate, suitable bed in a room shared with his or her mother. No other adults or children share the room with the mother and infant;

(2) child care equipment, including bedding, high chairs, if needed, car seats, appropriate toys, and furniture;

(3) clothing;

(4) all food, formula, diapers, and personal hygiene items; and

(5) pediatric care. Prior consultation and consent from infant's mother is required for any medical procedure.

(d) The contractor documents the interaction between the mother and the infant in the child's case record.

(e) The funded contractor is:

(1) reimbursed by OKDHS at a fixed daily rate, based upon actual utilization. The fixed daily rate is a blend of Title IV-E funds, per eligibility of each child served, and state funds; and

(2) submits Form ~~DCYS-S-2~~ 04CB002E, CFSD Claim for Purchase of Residential Care, for reimbursement to CFSD Administrative Services Unit.

PART 29. NON-FUNDED AND FUNDED LEVEL C PLACEMENTS

340:75-11-330. Non-funded and funded Level C placements and children served

(a) Placements equivalent to foster home placements for children requiring a home-like environment with a full-time house parent couple are contracted by:

(1) faith-based residential agencies for non-funded Level C placements; and

(2) non-faith-based residential agencies for funded Level C placements.

(b) Non-funded and funded contracted Level C services include:

(1) structured group treatment, a minimum of one hour per week for each child;

(2) individual treatment for each child, as needed;

(3) family visitation, when the case plan is reunification;

(4) family treatment, when deemed appropriate by the contractor and the Child Welfare (CW) county of jurisdiction worker;

(5) active teaching and redevelopment of the child's basic living and social skills, both on-site and in the community. At minimum, the focus is on the restoration of skills for:

(A) personal health and hygiene;

(B) maintenance of the living environment, including food preparation;

(C) money management;

(D) job skills readiness, acquisition, and retention;

(E) community awareness and mobility, including the use of community resources; and

(F) socialization skills and techniques, including communication;

(6) developing and implementing policy and procedures for delivery of independent living (IL) skills training to youth, using an approved curriculum for teaching IL skills;

(7) assisting in the provision of federally mandated IL services that include coordinating with the CW county of jurisdiction worker to ensure:

(A) the Daniel Memorial or Ansell-Casey Life Skills assessment is completed on each youth age 16 or older and implementing the IL plan produced by this assessment; and

(B) each youth age 15.5 or older attends one community contractor IL seminar each year;

(8) ensuring the youth applies for Medicaid upon his or her 18th birthday, if the youth remains in placement in voluntary care to complete his or her secondary education per OAC 340:75-6-115.9; and

(9) providing 24-hour on-call and on-site crisis intervention and behavior management services to each child, as needed.

(c) In addition, funded Level C services include:

(1) substance abuse or chemical dependency therapy within a group or individual counseling or therapy sessions for each child, as needed;

(2) behavior redirection 24 hours a day, seven days a week to meet the goals and objectives of the treatment plan and respond to any behavioral crisis of the child. The contractor ensures staff are available to respond in a crisis to stabilize the child's behavior and prevent placement disruption; and

(3) 24-hour on-call and on-site crisis intervention and behavior management services to each child, as needed. Emergency or crisis intervention services include face-to-face encounters with the child to resolve acute emotional dysfunction by providing intervention resolution and stabilizing functions through triage screening, planning, and documentation.

(d) Non-funded and funded contracted Level C placements are provided in a setting licensed as a child-placing agency group home or residential child care facility that is not located in a hospital, either medical or psychiatric, or psychiatric residential treatment center.

(e) The non-funded contractor:

(1) does not provide 24-hour awake supervision of children;

(2) is not required to provide clothing for the child in Oklahoma Department of Human Services (OKDHS) custody. Emergency clothing authorizations may be accessed per OAC 340:75-13-45;

(3) completes a written incident report describing any extreme behavioral incident or major rule violation, including the contractor's response, submits the original to the Children and Family Services Division, Community-Based Residential Services programs manager and a copy to the child's CW county of jurisdiction worker, and files a copy in the child's case record;

(4) meets the staffing guidelines defined in the OKDHS contract;

(5) complies with children's rights per OAC 340:75-11-237;

(6) complies with all general requirements per OAC 340:75-11-240; and

(7) provides placements of children at no cost to OKDHS.

(f) The funded contractor:

(1) provides clothing after initial placement of a child. Emergency clothing authorizations may be accessed per OAC 340:75-13-45;

(2) maintains documentation of each child's absent without leave (AWOL) and leave days defined in the contract and reports leave days on Form ~~DCYS-S-2~~ 04CB002E, CFSD Claim for Purchase of Residential Care;

(3) is reimbursed by OKDHS at a fixed daily rate. The fixed daily rate is a blend of Title IV-E per eligibility of each child served and state funds; and

(4) submits Form ~~DCYS-S 2~~ 04CB002E for reimbursement to CFSD Administrative Services Unit.

(g) Children served in non-funded and funded Level C placements.

(1) The primary goal of services is the remediation of mild to moderate behavior problems through a focus on daily living issues rather than clinical interventions.

(2) Non-funded contractors:

(A) provide services to children, male or female, ten to 18 years of age. Each contractor serves a different target population of children; and

(B) serve children whose typical behaviors include minor criminal offenses, difficulty in school, problems with authority figures, verbal aggression, peer difficulty, or infrequent runaway behavior with a few failed placements in a family setting.

(3) Funded contractors provide services to male children, 12 to 18 years of age, whose typical behaviors include impulse control problems and those behaviors listed in OAC 340:75-11-330(g)(2)(B).

(4) Children not appropriate for non-funded placement:

(A) have a history of setting fires or sexual perpetration;

(B) are chemically dependent or have used drugs in the last 30 days;

(C) are psychotic or on anti-psychotic medications;

(D) have lived on the streets for the prior six months; or

(E) are intellectually limited with an intelligence quotient (IQ) below 70 and have poor verbal skills.

(5) Both the non-funded and funded contractor receives referrals of children for placement from the CFSD Placement Section through the contract liaison.

PART 31. CONTRACTED LEVEL D PLACEMENTS

340:75-11-350. Contracted Level D placements and children served

(a) Contracted Level D placements are designed to serve the special needs of children, male or female, 12 to 17 years of age, in Oklahoma Department of Human Services custody, who are emotionally disturbed and certified as developmentally disabled by Developmental Disabilities Services Division (DDSD).

(b) The placement of children who are emotionally disturbed and developmentally disabled in Level D facilities is a joint decision made by the Children and Family Services Division (CFSD) programs manager or liaison to DDSD and DDSD programs manager for Residential Services.

(c) Providers of Level D placements are under contract with both CFSD and DDSD.

(d) Contractors receive referrals for children who are emotionally disturbed and developmentally disabled from DDSD programs staff.

(e) Level D contracted services include:

(1) structured group therapy, a minimum of one hour per week for each child;

(2) individual therapy, a minimum of one hour per week for each child;

(3) family visitation, when the case plan is reunification;

(4) family therapy, when deemed appropriate by the Child Welfare (CW) county of jurisdiction worker;

(5) substance abuse or chemical dependency therapy within a group or individual counseling or therapy session for each child, as needed;

(6) crisis intervention and behavior management services, as indicated in each child's DDSD Individualized Plan and in compliance with OAC 340:100-5-57. Emergency or crisis intervention services include face-to-face encounters with the child to resolve acute emotional dysfunction by providing intervention resolution and stabilizing functions through triage screening, planning, and documentation;

(7) staff available to respond in a crisis to stabilize a child's behavior and prevent placement disruption, 24 hours a day, seven days per week;

(8) active teaching and redevelopment of the child's basic living skills. At minimum, the focus is on the restoration of skills for:

(A) personal health and hygiene;

(B) maintenance of the living environment, including food preparation;

(C) money management;

(D) job skills readiness, acquisition, and retention;

(E) community awareness and mobility, including the use of community resources; and

(F) socialization skills and techniques, including communication;

(9) developing and implementing policy and procedures for delivery of independent living (IL) skills training to youth, using an approved curriculum for teaching IL skills; and

(10) providing 24-hour awake supervision of children.

(f) The contractor:

(1) complies with Part 105 of OAC 317:30-5 for residential behavior management services in group settings and non-secure diagnostic and evaluation centers;

(2) provides clothing after initial placement of a child. Emergency funds for clothing may be accessed per OAC 340:75-13-45;

(3) complies with group home regulations per OAC 340:100-6;

(4) completes a written incident report describing any extreme behavioral incident or major rule violation, including the contractor's response, submits a copy to the child's CW county of jurisdiction worker and DDSD case manager, and files the original in the child's case record;

(5) meets the staffing guidelines set forth in the OKDHS contract and OAC 340:100-6;

(6) complies with children's rights per OAC 340:75-11-237;

(7) complies with all general requirements per OAC 340:75-11-240;

(8) maintains documentation of each child's absent without leave (AWOL) and leave days set forth in the contract and reports leave days on Form ~~DCYS-S-2,~~ 04CB002E, CFSD Claim for Purchase of Residential Care;

(9) is reimbursed guaranteed payment by CFSD for the total number of beds specified in the contract;

(10) is reimbursed by OKDHS at a fixed daily rate. The fixed daily rate is a blend of Title IV-E and Title XIX federal funds, per eligibility of each child served, and state funds; and

(11) submits Form ~~DCYS-S-2~~ 04CB002E for reimbursement to CFSD Administrative Services Unit.

PART 33. CONTRACTED LEVEL D PLUS AND LEVEL E PLACEMENTS

340:75-11-360. Contracted Level D plus (+) and Level E placements

(a) Contracted Level D+ and Level E services include:

(1) structured group therapy, a minimum of two hours per week for each child;

(2) individual therapy, a minimum of one hour per week for each child;

(3) family visitation, when the case plan is reunification;

(4) family therapy, when deemed appropriate by the Child Welfare (CW) county of jurisdiction worker;

(5) substance abuse or chemical dependency therapy within a group or individual counseling or therapy session for each child, as needed;

(6) psychological or psychiatric intervention for each child through direct contact with a psychologist or psychiatric consultant or the contractor's designated therapy counseling staff;

(7) behavior redirection 24 hours a day, seven days a week to meet the goals and objectives of the treatment plan and respond to any behavioral crisis of the child. The contractor ensures staff are available to respond in a crisis to stabilize the child's behavior and prevent placement disruption;

(8) active teaching and redevelopment of the child's basic living and social skills, both on-site and in the community. At minimum, the focus is on the restoration of skills for:

(A) personal health and hygiene;

(B) maintenance of the living environment, including food preparation;

(C) money management;

(D) job skills readiness, acquisition, and retention;

(E) community awareness and mobility, including the use of community resources; and

(F) socialization skills and techniques, including communication;

(9) developing and implementing policy and procedures for delivery of independent living (IL) skills training to youth, using an approved curriculum for teaching IL skills;

(10) assisting in the provision of federally mandated IL services that include coordinating with the CW county of jurisdiction worker to ensure:

(A) the Daniel Memorial or Ansell-Casey Life Skills assessment is completed on each youth age 16 or older and implementing the IL plan produced by this assessment; and

(B) each youth age 15.5 or older attends one community contractor IL seminar each year;

(11) ensuring the youth applies for Medicaid upon his or her 18th birthday, if the youth remains in placement in voluntary care to complete his or her secondary education per OAC 340:75-6-115.9;

(12) providing 24-hour awake supervision of each child;

(13) providing 24-hour on-call and on-site crisis intervention and behavior management services to each child, as needed. Emergency or crisis intervention services include face-to-face encounters with the child to resolve acute emotional dysfunction by providing intervention resolution and stabilizing functions through triage screening, planning, and documentation;

(14) providing a nine-month on-site educational program for each child in a Level D+ placement;

(15) providing recreation services for each child in a Level E placement; and

(16) providing a 12-month on-site educational program for each child in a Level E placement.

(b) Contracted Level D+ and Level E placements are provided in a setting licensed as a child-placing agency group home or residential child care facility that is not located in a hospital, either medical or psychiatric, or psychiatric residential treatment center.

(c) The contractor:

(1) complies with Part 105 of OAC 317:30-5 for residential behavior management services in group settings and non-secure diagnostic and evaluation centers;

(2) provides clothing, after initial placement of a child. Emergency funds for clothing may be accessed per OAC 340:75-13-45;

(3) completes a written incident report describing any extreme behavioral incident or major rule violation, including the contractor's response, submits the original to the Children and Family Services Division (CFSD) Community-Based Residential Services programs manager and a copy to the child's CW county of jurisdiction worker, and files a copy in the child's case record;

(4) meets the staffing guidelines defined in the Oklahoma Department of Human Services (OKDHS) contract;

(5) complies with children's rights per OAC 340:75-11-237;

(6) complies with all general requirements per OAC 340:75-11-240;

(7) maintains documentation of each child's absent without leave (AWOL) and leave days defined in the contract and reports leave days on Form ~~DCYS-S-2~~ 04CB002E, CFSD Claim for Purchase of Residential Care;

(8) is reimbursed by OKDHS at a fixed daily rate for the total number of beds specified in the OKDHS contract. The fixed daily rate is a blend of Title IV-E and Title XIX federal funds, per eligibility of each child served, and state funds; and

(9) submits Form ~~DCYS-S-2~~ 04CB002E for reimbursement to CFSD Administrative Services Unit.

(d) Children served in Level D+ and Level E placements.

(1) The primary goal of Level D+ and Level E services is the remediation of emotional disorders or behavioral problems through a focus on clinical interventions.

(2) Level D+ placements are less restrictive treatment intensive placements than Level E placements or psychiatric inpatient care and are available for children with severe emotional disorders or behavioral disorders.

(3) Children served in Level D+ placements exhibit a wide range of serious emotional disturbances and behavioral disorders, but are less physically or sexually aggressive than children served in Level E placements.

(4) Level E placements are the most restrictive treatment intensive placements available for children outside of a psychiatric facility.

(5) In general, children served are male or female:

(A) 12 to 18 years of age in Level D+ placements; and

(B) 13 to 18 years of age in Level E placements. Each contractor serves a specifically defined target population of children.

(6) The contractor receives referrals for the placement of children from CFSD Placement Section through the contract liaison.

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. Social Security number

A SSN is required by federal regulations for anyone applying for Medicaid coverage. Form SS-5, Application for Social Security Number, is completed and submitted to the local Social Security Administration office by the Child Welfare worker for the child in the legal custody of Oklahoma Department of Human Services in out-of-home care;

(A) who does not have a Social Security number (SSN); ~~or~~

(B) whose SSN cannot be obtained from family resources; or

(C) for whom the OKDHS Information Management System (IMS) does not show a verified SSN. ~~A SSN is required by federal regulations for anyone applying for Medicaid coverage.~~

SUBCHAPTER 15. ADOPTIONS

PART 2. LEGAL BASE AND SCOPE OF THE ADOPTION PROGRAM

340:75-15-5. Legal base

(a) **Legal base.**

(1) The Oklahoma Adoption Code, Chapter 75, Section 7501-1.1 et seq. of Title 10 of the Oklahoma Statutes, sets forth the provisions for the adoption of children and the legal actions necessary for adoptions. Adoption services are provided to birth parents, children, and adoptive families to establish and maintain suitable, stable, permanent homes for children that maximally meet the child's developmental needs.

(2) Sections 7510-1.1 through 7510-3.3 and Public Law 96-272 require that the Oklahoma Department of Human Services (OKDHS) administer an adoption assistance program to assist with the adoptive placement and maintenance of children with special needs in adoptive homes.

(3) Section 7508-1.2 requires OKDHS to establish and administer a Mutual Consent Voluntary Registry whereby an eligible person who was separated from birth family members through adoption or termination of parental rights may indicate a willingness to have his or her identity and whereabouts disclosed to birth family members.

(4) Section 7508-1.3 requires OKDHS to establish and administer a Confidential Intermediary Search program whereby the services of a confidential intermediary who has been certified through OKDHS may be used by eligible persons to locate an eligible adult biological relative(s) with whom contact has been lost through adoption or termination of parental rights proceedings.

(5) Sections 7506-1.1 through 7506-1.2 require OKDHS to establish and administer a Centralized Paternity Registry (CPR) in order to protect the parental rights of a alleged or presumed father who may wish to affirmatively assume responsibility for a child(ren) he may have fathered. CPR also expedites adoptions of children whose biological fathers are unwilling to assume responsibility for their children by registering with the registry or otherwise acknowledging their children.

(6) The Adoption and Safe Families Act (ASFA) [Public Law 105-89] mandates that OKDHS place legally free children in adoptive homes when that is the case plan goal, provide for the interjurisdictional placement of children, and provide post adoption services as a component of the family preservation services.

(7) The Multiethnic Placement Act of 1994 (MEPA) as amended by the Interethnic Adoption Provisions of 1996 (IEP), is designed to eliminate discrimination on the basis of race, color, or national origin of the child or the prospective foster or adoptive parent(s); to decrease the length of time that children wait to be adopted; and to facilitate the identification, recruitment, and retention of foster and adoptive parents who can meet the distinctive needs of children awaiting placement. MEPA/IEP prohibits states or agencies that receive federal funds from delaying or denying the placement of any child on the basis of the race, color, or national origin of the child or the prospective foster or adoptive parent(s).

(A) **Placement considerations.** Any decision to consider the use of race as a necessary element of a placement decision must be based on concerns arising out of the circumstances of the individual case and based on the best interests of the child. Only the most compelling reasons may serve to justify consideration of race and ethnicity as part of a placement decision. Such reasons are likely to emerge only in unique and individual circumstances. Accordingly, occasions where race or ethnicity lawfully may be considered in a placement decision are very rare. Children who meet the definition of an Indian child in accordance with the Indian Child Welfare Act (ICWA) [25 U.S.C. Section 1903(4)] are placed according to the placement preferences found in ICWA. MEPA/IEP does not prohibit a preference for placing a child with relatives.

(B) **Recruitment efforts.** As part of MEPA/IEP, efforts to recruit Bridge resource families must reflect the ethnic and cultural diversity of children in Oklahoma who need foster and adoptive homes. A comprehensive recruitment plan is developed and updated annually by the area adoption supervisor.

(b) **Scope.** Each child with a case plan goal of adoption is referred for adoption services, which includes identification of an appropriate adoptive home, preparation of the child for adoptive placement, and supportive services to the child and adoptive family. OKDHS also provides services designed to recruit and develop adoptive homes. Due to the life experiences and backgrounds of the children available for adoption through OKDHS, services in all components of adoption are child focused.

340:75-15-7. Definitions

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

"Adoptee" means a person who is adopted or is to be adopted.

"Adoption" means a way of providing security for and meeting the developmental needs of a child by legally transferring ongoing parental responsibilities for that child from the parent(s) or legal guardian to the adoptive parent(s), and, in the process, creating a new kinship network that links the birth family and the adoptive family through the child.

"Adoption Assistance" means assistance provided to the adoptive family based on the needs of the child that may include a monthly payment, medical card, or both, and reimbursement of attorney's fees related to the finalization of the adoption.

"Adoption Assistance Agreement" means a binding, contractual agreement between an adoptive parent(s) and Oklahoma Department of Human Services (OKDHS) that specifies:

(A) the duration of the agreement;

(B) the nature and amount of any payment, service, and assistance to be provided;

(C) the agreement shall remain in effect regardless of the state in which the adoptive parent(s) resides;

(D) the interests of the child are protected in cases where the adoptive parent(s) and the child move to another state; and

(E) the requirements of the adoptive parent(s) to continue to receive the assistance.

"Adoption Assistance Agreement, Agreement Only" means an agreement where:

(A) the adoptive parent(s) chooses to defer the receipt of a medical card, monthly monetary payment, or both and elect to maintain the option to receive a medical card, money payment, or both at some point in the future; or

(B) the child is not immediately eligible for adoption assistance benefits but is at risk of developing a special need that would make them eligible for adoption assistance after finalization of the adoption.

"Adoption disruption" means the interruption of an adoption after placement of the child and before legal **finalization** of the adoption.

"Adoption Party" means an event held to introduce children in the custody of OKDHS with a goal of adoption to prospective adoptive families in order to facilitate an adoptive placement.

"Adoption specialist" means an ~~Oklahoma Department of Human Services (OKDHS)~~ OKDHS Child Welfare (CW) worker whose primary responsibilities include:

(A) identification of children in OKDHS custody in need of adoption planning in consultation with OKDHS CW staff;

(B) recruitment and adoptive home development;

(C) full disclosure of all known history of the child to a prospective adoptive family;

(D) trial adoptive placement;

(E) post placement planning and supervision; and

(F) legal consummation of adoptive placements.

"Adoption transition specialist" means an OKDHS CW worker whose primary responsibilities include:

(A) identification of children in OKDHS custody in need of adoption planning in consultation with OKDHS CW staff;

(B) assessment and preparation of children for adoption;

(C) adoptive planning and recruitment for children;

(D) sibling visitation and reunification efforts; and

(E) transition of children into adoptive homes.

"Agency Decline" means a decision made by OKDHS not to proceed with placement of a child in an authorized adoptive home.

"Alleged father" means *a man who alleges himself to be, or is ~~alledged~~ alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined*. The term does not include a presumed father. [10 O.S. § 7700-102]

"Approved adoptive family" means an adoptive family who has completed the required assessment process per OAC 340:75-15-88.

"Attachment" means a psychologically rooted tie between two persons that permits them to have affectual significance for each other.

"Authorized adoptive placement" means permission from OKDHS Children and Family Services Division to proceed with an offer of a child to an approved adoptive family.

"BIS" means Bridge in-service training. This training is provided to resource families regarding the requirements to be a Bridge Family.

"Blind showing" means an OKDHS sponsored arrangement for a prospective adoptive parent(s) to view a child without meeting or being introduced to the child as a prospective parent(s).

"Bridge family or resource family" means a family who may be asked to:

(A) provide temporary care, love, and nurturance to the child and serve as a mentor actively helping the parent improve their ability to safely care for their children while staying connected and assisting in the transition to reunification, legal guardianship, or adoption to another family: and /or

(B) serve as the legal guardian for the child while maintaining a child's connection to kin, culture, and community; and/or

(C) adopt the child while maintaining a child's connection to kin, culture, and community.

"Child Profile" means the child's biological family background, social, educational, and medical history of a child prepared when the child's permanency plan becomes adoption. This profile is provided to adoptive families after an authorization is completed and prior to placement of the child in the adoptive home for purposes of full disclosure.

"Child with special needs" means a child who may be difficult to place for adoption due to a serious physical or mental disability, emotional disturbance, high risk to develop a physical or mental disability, age, sibling relationship, racial or cultural factors, or a combination of these conditions, per Public Law 96-272.

"Concurrent planning" means the provision of reunification services to a child in OKDHS custody and the child's parent(s) or legal guardian while simultaneously developing an alternative plan, in case reunification efforts fail or are no longer feasible.

"Culture" means shared values, norms, traditions, customs, arts, history, folklore, and institutions of persons who share historical or geographical proximity. Culture is not synonymous with race or ethnicity.

"Decline" means a family's decision, for whatever reason, to not pursue placement of a child for whom they have been authorized.

"Directive" means a form signed by the Director of OKDHS or designee authorizing an OKDHS employee to sign consent to the adoption of a child who is in OKDHS custody.

"Disclosure" means a process in which OKDHS provides medical, psychological, educational, and social history, including the child profile, to a Bridge adoptive family authorized for a specific child.

"Dissolution of adoption" means the act of ending an adoption by a court order terminating the legal relationship between the child and the adoptive parent(s). This term applies only after finalization of the adoption.

"Finalized adoption" means the legal consummation of an adoption.

"Indian Child Welfare Act" means legislation that mandates minimum standards for the removal and placement of Indian children from their families and tribes per Section 1901 of Title 25 of the United States Code and Section 40 et seq. of Title 10 of the Oklahoma Statutes.

"Integrated Assessment" means an assessment, of a family interested in becoming a Bridge resource family for OKDHS, that is completed by OKDHS staff or by a contractor of OKDHS. The assessment consists of an evaluation of the family's ability to foster and adopt, and includes, but is not limited to:

(A) consideration of criminal and CW history;

(B) the safety and physical ability of the home to integrate a new family member;

(C) the number and ages of children in the home;

(D) references;

(E) military history; and

(F) household income.

"Interlocutory decree" means a temporary court order, after the filing of the adoption petition, that gives the petitioner temporary care and custody of the child until the final decree of adoption is entered.

"Licensed child-placing agency" means a private agency that is licensed by OKDHS. A licensed child-placing agency is authorized to approve families for adoptive placement, and to place children who are legally available for adoption.

"Life Book" means a compilation of photographs, documents, mementos, illustrations, and narrative accounts of important events in a child's and family's life. The child's Life Book is compiled with or for a child who is in OKDHS custody in an effort to prepare a child for placement. The adoptive family's Life Book is completed by the family as a part of the assessment process.

"Master adoptive parent" means an experienced adoptive parent who serves as a support person to adoptive families.

"Media recruitment" means the use of newspaper, radio, television, Internet, or other communication resources to provide general information about adoption or specific information about a child available for adoption.

"Notice of Plan for Adoption" means written notification to the alleged or presumed father of a child born out of wedlock that the birth mother is considering adoptive placement for the child. Notice of Plan for Adoption may be given by OKDHS, licensed child-placing agency, or an attorney representing prospective adoptive parent(s) of the child, either before or after the child's birth.

"Presumed father" means a man who, by operation of law under Section 7700-204 of Title 10 of the Oklahoma Statutes, is recognized as the father of a child until that status is rebutted or confirmed in a judicial proceeding. A man is presumed the father of a child if:

(A) he and the mother of the child are married to each other and the child is born during the marriage;

(B) he and the mother of the child were married to each other and the child is born within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, dissolution of marriage or after decree of separation;

(C) before the birth of the child, he and the mother of the child married each other in apparent compliance with law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within three hundred (300) days after its termination by death, annulment, declaration of invalidity, a decree of separation, or dissolution of marriage;

(D) after the birth of the child, he and the mother of the child married each other in apparent compliance with law, whether the marriage is or could be declared invalid, and he voluntarily asserted his paternity of the child; and:

(i) the assertion is in a record with the State Department of Health, Division of Vital Records or OKDHS;

(ii) he agreed to be and is named as the child's father on the child's birth certificate; or

(iii) he promised in a record to support the child as his own; or

(E) for the first two years of the child's life, he resided in the same household with the child and openly held out the child as his own.

"Pre-Resource" means a family who has inquired about adoption, submitted an application to adopt, or both, but has not had an integrated assessment completed.

"Search" means the process of locating an adult birth relative of a child with whom contact has been lost through adoption or termination of parental rights.

"Statewide Adoption Staffing" means a monthly meeting between permanency planning and adoption staff from across the state in order to share information about children available for adoption.

"Swift adoption services" means processes completed by contracted agencies or OKDHS staff to gather history regarding a child in OKDHS custody, including the child's biological family background, medical, educational, and social history for purposes of full disclosure to a prospective adoptive family.

"Termination of parental rights" means a judicial proceeding that frees a child from all custody and control by a parent(s).

"Trial Adoption (TA)" means the time between when a child is placed into an adoptive placement until the adoption is legally finalized.

PART 6. ADOPTION PROCESS

340:75-15-41. Adoptive placement criteria staffing

The adoption process is a team effort that includes the adoption specialist and supervisor, adoption transition specialist and supervisor, Child Welfare (CW) worker and supervisor, and service providers.

(1) **Adoption consultation.** No later than 30 calendar days after a child's name first appears on the report that lists children with a permanency plan of adoption, or after e-mail notification from a CW supervisor is received, the adoption specialist and CW worker participate in an adoption consultation.

(~~1~~2) **Criteria staffing.** ~~Within 30 calendar days of the initial adoption consultation~~, Within 14 days of the filing of a termination petition, the CW worker completes Form 04AN020E, Adoptive Placement Criteria Staffing, ~~is completed on~~ for any child with the goal of adoption to assist in determining the type of placement that best meets the child's needs and to ensure that every effort is made to place with family. The assessment may identify a prospective adoptive parent(s)' ability to meet the child's needs and addresses the legal status and any legal barriers to adoption.

(~~2~~3) **Placement assessment.** Completion of the adoptive placement criteria staffing is not approval for adoptive placement. A child for whom there is no resource identified is referred to statewide adoption staffing. Form 04AN020E is completed for the child on all interested, prospective caregivers. Factors considered when identifying the placement that best meets the child's needs are described in (A) through (~~K~~J).

(A) **Siblings.** Siblings are placed together when possible unless a joint placement would be contrary to the safety or well-being of any of the siblings. Siblings are separated in adoptive placement only in certain circumstances, in accordance with OAC 340:75-6-85.2 and 340:75-15-43.

(B) **Attachment.** The attachment of the child to the siblings, foster family, and significant others is assessed and used as an indicator of the child's ability to attach to an adoptive family.

(C) **Age.** Age is evaluated in relation to the applicant's ability to parent the child into adult years.

(D) **Health.** The health records of the prospective adoptive applicant must indicate the applicant has the health to participate with the child in normal developmental activities and parent the child into adult years.

(E) **Culture.** Oklahoma Department of Human Services (OKDHS) does not rely on generalizations

about the identity needs of children of a particular race or ethnicity. OKDHS does not presume from the race or ethnicity of the prospective adoptive applicant that he or she would be unable to maintain the child's ties to another racial, ethnic, or cultural community.

(F) **Adoption of an Indian child.** The child who meets the definition of an Indian child under the federal and state Indian Child Welfare Act (ICWA), Section 1901 of Title 25 of the United States Code and Section 40 et seq. of Title 10 of the Oklahoma Statutes, must be placed according to the placement preferences per OAC 340:75-19-23. Prior to placing an Indian child in a non-extended family or non-Indian family, the child's CW worker must request that the court of adjudication conduct a good cause hearing. ICWA requires that:

(i) a good cause hearing is set;

(ii) prior notice is given to all parties, including the tribe; and

(iii) the court make a finding that good cause exists to not follow the placement preferences of ICWA.

(G) **Religion.** The child is provided an opportunity for spiritual and moral development. If the child has made a religious commitment or the parent(s) has made a specific request, OKDHS makes a reasonable effort to find an adoptive family of like faith.

(H) **Language.** If the child's primary language is other than English, special consideration is given to identifying an adoptive family fluent in the same language as the child, including sign language for a child who is hearing impaired.

(I) **Education.** The child is given the opportunity to develop his or her potential and will not be subjected to unrealistic academic expectations.

~~(J) **Geographic location.** The child is placed in a locality where the child and adoptive family are protected from identification and from undue interference by the birth family. When foster parents or relatives are considered as an adoptive family, this criterion is of special significance. An assessment is made to determine the adoptive parent(s)' ability to parent without undue interference.~~

(~~K~~J) **Resources.** The adoptive family must have adequate resources to meet the child's financial, medical, health, educational, shelter, and emotional needs. Adoption assistance is a resource for the child who meets eligibility criteria, per OAC 340:75-15-128.

340:75-15-43. Sibling placements

(a) Oklahoma Department of Human Services (OKDHS) supports the relationship of sibling groups by placing them together in out-of-home care when possible unless a joint placement would be contrary to the safety or well-being of any of the siblings. Siblings who are not placed together in out-of-home care are afforded regular visitation and other ongoing interaction with each other, unless such visitation and contact would be contrary to the safety or well-being of any of the siblings. Siblings who are separated are moved into the same placement at the first available opportunity. Siblings with the permanency plan of adoption are staffed for adoptive placement as a sibling group.

(b) Exceptions to placing siblings together for adoptive placement include children who:

(1) are placed with relatives; and

(2) have a documented need for separation due to extreme behavior that is or would be harmful to a sibling on a long-term basis, per OAC 340:75-6-85.3.

(c) When separation is approved by the Children and Family Services Division Sibling Separation Committee, a plan for continued contact is provided to and agreed upon by the caregivers of the children. The Child Welfare worker explains to the prospective adoptive parent(s) that authorization to separate the children for placement does not sever the sibling relationship.

PART 10. ~~ADOPTIVE~~ INTEGRATED FAMILY ASSESSMENT AND PREPARATION PROCESS

340:75-15-82. Recruitment of ~~adoptive homes~~ Bridge resource families

(a) **Recruitment program.** The recruitment of ~~adoptive~~ Bridge resource ~~homes~~ families is an ongoing, proactive component of adoption services. A combination of both child-specific and more general, targeted recruitment is used. Public service announcements are also used to inform the general public of the continuous need for ~~adoptive~~ Bridge resource families for children with special needs.

(b) **Minority adoption recruitment.** General, targeted, and child-specific recruitment methods are used to recruit minority families as well as families for any growing population within the Child Welfare system. Diligent efforts are made to recruit potential ~~adoptive~~ Bridge resource families who reflect the ethnic and racial diversity of children in the custody of the Oklahoma Department of Human Services (OKDHS) for whom adoptive homes are needed.

(c) **Media recruitment.** Options for media recruitment may include, but are not limited to television, newspapers, and public service announcements (PSA).

(d) **Adoption exchange registrations.** Sections 7510-2.1 through 7510-2.5 of Title 10 of the Oklahoma Statutes require that children be listed on an adoption exchange if they have not been placed for adoption in 90 calendar days after termination of parental rights where the child is legally free for adoption. OKDHS uses a variety of exchanges which provide the best opportunity to identify adoptive resources.

(e) **Web site photo listing.** OKDHS has an online photo listing of children who are waiting for adoptive homes. Legally free children who have been staffed at statewide adoption staffing, but for whom no adoptive home was identified, are referred to www.okdhs.org/programsandservices/adopt/ and www.adoptUskids.org. Children who object to being listed on the Internet or other exchanges are exempt.

340:75-15-83. Eligibility to adopt

(a) Section 7503-1.1 of Title 10 of the Oklahoma Statutes states that persons eligible to adopt a child are:

(1) a husband and wife jointly, if both spouses are at least 21 years of age;

(2) either the husband or wife if the other spouse is a parent or relative of the child;

(3) an unmarried person who is at least 21 years of age; or

(4) a married person who is at least 21 years of age who is legally separated from the other spouse.

(b) ~~Adoptive~~ Bridge resource applicants are required to reside in and remain in Oklahoma until the assessment and preparation process of the family is completed.

340:75-15-84. Application process

(a) **Application to adopt.** The applicant is referred to the adoption specialist for the county in which the applicant lives. The adoption specialist responds promptly to prospective applicants. The applicant is invited to attend a group orientation meeting or an individual intake interview is scheduled upon request of the applicant. If the applicant chooses to apply, the adoption specialist provides an application packet. The adoption specialist discusses with the applicant information about the adoption program described in (1) through (10).

(1) The program is child focused. A family is selected who will best meet the child's long-term best interests and individual needs. Families inquiring about adopting a child of a certain age, race, or other characteristic OKDHS reasonably believes may not be available for adoption in the foreseeable future are advised their application will not be processed.

(2) The completed resource family assessment summary is the basis for selection.

(3) Oklahoma Department of Human Services (OKDHS) contracts with licensed child-placing agencies to complete resource family assessments.

(4) An application, including one by a foster parent or relative, does not guarantee placement of a child in the applicant's home.

(5) There is no fee for services provided by OKDHS to applicants who apply to adopt a child in the legal custody of OKDHS.

(6) A family is referred to licensed child-placing agencies if the family is interested in adopting a specific type of child that is not available through OKDHS.

(7) A criminal background and Child Abuse and Neglect Information System check is required and includes, but is not limited to:

(A) fingerprinting and a Federal Bureau of Investigation (FBI) check of each applicant and adult residing in the household;

(B) an Oklahoma State Bureau of Investigation (OSBI) check that includes Department of Public Safety check and Sex ~~Offenders~~ Offender Registry check for each adult household member;

(C) a Child Abuse and Neglect Information System check and OKDHS records check for each adult household member;

(D) a search of all applicable out-of-state child abuse and neglect registries when an applicant or adult household member has not lived continuously in Oklahoma for the past five years;

(E) an Oklahoma State Courts Network check at www.oscn.net;

(F) an Oklahoma District Court Records check (ODCR) at www.odcr.com;

(G) an offender information and offender lookup through Oklahoma Department of Corrections (DOC) at www.doc.state.ok.us;

(H) a Juvenile Justice Information System (JOLTS) records check for each child in the family 13 years of age or older;

(I) a background check request from Family Advocacy for all active or retired military families; and

(~~I~~J) a discharge from military duty, DD Form 214, Certificate of Release of Discharge From Active Duty, that is provided by the applicant.

(8) Verification of marriages, divorces, legal separations, or annulments, employment, and income are required.

(9) Applicants are required to complete 27 hours of pre-service training, including six hours of Behavior Crisis Management Training (BCMT), per OAC 340:75-7-14.

(10) Applicants are responsible for providing copies to OKDHS of any non-OKDHS assessments or evaluations, including previous adoptive, foster home, relative, divorce custody, or other custody assessments.

(11) OKDHS inquires whether the applicant has applied to be or has been an approved foster or adoptive parent in another state. OKDHS requests from all applicable states, any history of child abuse or neglect or criminal history from the appropriate state agency.

(b) **Application to adopt by OKDHS employees.** OKDHS employees may apply to adopt from OKDHS, though no preferential treatment is given.

(c) **Reapplication to adopt.** When previous adoptive parents apply to adopt again, the ~~adoption~~ Bridge resource application information is updated.

(d) **Denial or withdrawal of applications.** When it becomes apparent that the applicant does not meet the resource family requirements set out in Form 04AF002E, Guidelines for Resource Family Assessment Bridge Family Profile, the resource family assessment process may be discontinued and the application withdrawn or denied.

(1) The reasons for discontinuing the assessment prior to completion, per OAC 340:75-15-88, are explained to the applicant in person when possible and are stated in a letter to the applicant regardless whether personal contact is made.

(2) The applicant may voluntarily withdraw the application. If the applicant declines to withdraw the application, local staff denies the application.

(3) Families desiring to adopt a child of a certain age, race, or other characteristic OKDHS reasonably believes may not be available for adoption in the foreseeable future are referred to licensed child-placing agencies that are more likely to place children matching the request.

(e) **Out-of-state adoptive applicants.** OKDHS does not process applications from adoptive applicants outside of Oklahoma, but accepts certified resource family studies or assessments from a licensed agency or the public agency in another state.

(1) In cooperation with a licensed adoption agency in another state, an adoptive family may be considered for a child in Oklahoma.

(2) Children and Family Services Division Adoption Services Section coordinates placement and supervision with an agency in the state where the adoptive family resides.

(3) All provisions of the Interstate Compact on the Placement of Children are followed, per OAC 340:75-15-61 and 340:75-15-82.

340:75-15-87. Assessment and preparation process

(a) **Assessment.** The assessment process is a tool for Oklahoma Department of Human Services (OKDHS) to assist the family in determining the family's ability to parent a child with special needs. The family is provided basic background information required to understand the adoption process, laws, and types of parenting issues faced by parents who adopt children with special needs. All services provided to the family in preparation for placement are designed to increase the family's ability to problem solve, access help, and cope with parenting a child with a unique history and needs.

(b) ~~**Joint approval of foster and adoptive families.**~~ **Approval of Bridge Resource Families.** OKDHS ~~jointly~~ approves ~~Child Welfare (CW) foster homes as adoptive~~ Bridge resource ~~homes~~ families when the home meets eligibility standards of both the foster care and adoption programs, per OAC 340:75-7-19. The ~~differences in the goals of the two programs are~~ requirements of a Bridge resource home is explained to the family. The family is advised that children in foster care are not moved in order to place an adoptive child in the home. All children in the home, including children in foster care placement, are considered in making placement decisions regarding an adoptive placement.

(c) **Interviews with applicants.** Individual and joint interviews are held with each family and household member with a minimum of two home visits on separate days. Information regarding the current family structure, family history, and social support is gathered through the interviews.

(d) **Reference information.** Signed Form 04AF001E, Bridge Resource Family Assessment Application, grants OKDHS permission to contact the listed references. Forms are mailed to appropriate references and in-person or telephone contact is made with each personal reference.

(e) **Health and age.** Form 04AF008E, Medical Examination Report, or other medical examination report by a doctor for each household member must be submitted before the assessment is complete. An application to adopt a specific child elicits information to assess the adoptive applicant's ability to provide care for the child into adult years, given the applicant's health history and age.

(f) **Background checks.**

(1) **Authorization.** Section 7505-5.3 of Title 10 of the Oklahoma Statutes mandates a criminal background check and Child Abuse and Neglect Information System check for all public agency and private ~~adoptive~~ resource parent applicants and all other household members 18 years and older. The background check includes a search of:

(A) Oklahoma Department of Public Safety records;

(B) Oklahoma State Bureau of Investigation (OSBI) records;

(C) Federal Bureau of Investigations (FBI) national criminal history records search;

(D) Department of Corrections (DOC) files maintained pursuant to the Sex ~~Offenders~~ Offender Registration Act;

(E) Oklahoma State Courts Network (OSCN);

(F) Oklahoma District Court Records (ODCR);

(G) Child Abuse and Neglect Information System;

(H) a background check request from Family Advocacy for all active or retired military families; and

(~~H~~I) all applicable out-of-state child abuse and neglect registries when an applicant or adult household member has not lived continuously in Oklahoma for the past five years. If no registry is maintained in the applicable state, the adoption specialist requests any information that can be provided. The prospective adoptive parent is not approved without the results of the state-maintained child abuse and neglect registry check if a registry is maintained in the applicable state.

(2) **Fingerprint search.** A national criminal history records search based upon submission of fingerprints is required for ~~adoptive~~ Bridge resource family applicants and other household members 18 years and older.

(A) When a fingerprint search has been done in the past five years and is available for review by the person conducting the adoptive home study, then only an OSBI criminal background check is required.

(B) A home study is not initiated if any applicant or adult household member refuses to submit the forms granting permission for the background check.

(i) All adult household members age 18 and older complete and sign Form 04AD003E, Request for Background Check, and submit fingerprint cards authorizing OKDHS to conduct a records check.

(ii) Background information is considered in making a final recommendation. Information that reveals a risk to the child is used in denying the application, per OAC 340:75-15-88.

(3) **Fingerprinting charges.** Once an applicant receives fingerprint cards, law enforcement or a private fingerprinting company may fingerprint the applicant. There is no charge to OKDHS applicants. Non-OKDHS

adoptive applicants are responsible for any charges incurred for this service.

(4) **Obtaining fingerprinting services.** Law enforcement is not mandated to provide the fingerprinting service. Local law enforcement is contacted to ascertain their willingness and availability to provide this service and the cost per person.

(5) **Time frames.** If the fingerprinting is not done correctly, the cards are rejected by either the OSBI or Federal Bureau of Investigation (FBI). The applicant must be reprinted when this occurs. If the fingerprint cards are found unacceptable the second time, the applicant must pay the fee to be re-fingerprinted and non-OKDHS applicants must pay the search fee. The estimated time frame to receive all results from the OSBI and FBI is approximately eight weeks.

(6) **Exception to fingerprinting.** The Director of OKDHS or designee may authorize an exception to the fingerprinting requirement, and authorize use of an alternative procedure for obtaining a national criminal records check for any adult residing in the home who has a severe condition that precludes such person being fingerprinted. The alternative procedure may be used in limited, and case-specific circumstances when OKDHS may not be able to:

(A) obtain an individual's fingerprints as a result of the individual's disability; or

(B) obtain legible fingerprints due to low quality fingerprints, as a result of age, occupation or otherwise, thereby making it impossible for the national crime information databases (NCID) to provide the results.

(g) **Marriage history.** The applicant provides copies of present marriage license and any divorce decrees, legal separations, and annulments, if applicable. Documentation of the validity of the present marriage is necessary to determine eligibility to adopt and protect the legal status of the prospective adoptive child. If there is a child from a previous marriage, the child's role in the family is discussed and child support is documented.

(h) **Financial statement.** The applicant completes Form 04AF010E, Resource Family Financial Assessment, and provides documentation of employment and income. Management of resources is more important than the family's income and is addressed in the assessment summary.

(i) **Photographs.** Recent photographs of the applicant are provided as part of the final assessment summary.

(j) **Pre-service training.** Each ~~adoptive~~ Bridge resource applicant must complete a prescribed course of pre-service training consisting of approximately 27 hours of instruction designed to assist the applicant in evaluating the strengths, needs, and challenges in parenting a child with special needs, per OAC 340:75-7-14.

340:75-15-88. Completed Bridge resource family assessment and recommendation

(a) **Bridge Resource family assessment.** The Bridge family assessment is conducted as outlined in Form 04AF002E, Guidelines for Resource Family Assessment Bridge Family Profile. The completed assessment includes impressions of the family, their strengths and risks in adopting, and the special needs, age range, and gender of the child(ren) they wish to adopt.

(1) A copy of the Bridge resource family assessment, excluding the verification and reference sections, is reviewed with the family prior to completion of the final written assessment summary. The reference and verification sections are confidential and are not provided to the family.

(2) The family is given an opportunity to correct errors prior to completion of the final written assessment.

(3) Once the assessment is finalized, it is signed by the resource family applicant and contractor and submitted to the area adoption supervisor for approval. A copy of the final supervisor approved Bridge resource family assessment, excluding the verification and reference sections, is provided to the applicant by the adoption specialist.

(b) **Approval.** The Bridge resource family assessment is approved by the area adoption supervisor if the applicant meets requirements as outlined in Form 04AF002E and Oklahoma Department of Human Services (OKDHS) policy.

(c) **Resource family relocation.** When a family moves to another county within Oklahoma the assigned adoption specialist transfers the resource family record. An evaluation is done to reflect the ~~adoptive~~ resource family's new home and situation.

(d) **Denial.** Reasons for denial may include, but are not limited to:

(1) a lack of a stable, adequate income to meet the applicant's own or total family needs or poor management of available income;

(2) a physical facility that is inadequate to accommodate the addition of children to the home or that presents health or safety concerns;

(3) the applicant or any person residing in the home has a history of alleged or confirmed child abuse, neglect, or both;

(4) the applicant or any person residing in the home has a history of arrests or convictions.

(A) A felony conviction for any of the offenses listed in (i) through (iii) results in an automatic denial of the application.

(i) A crime involving violence including, but not limited to, rape, sexual assault, or homicide, but excluding physical assault or battery.

(ii) Child abuse or neglect.

(iii) A crime against a child, including, but not limited to, child pornography.

(B) A felony conviction of a prospective adoptive parent or anyone residing in the home for physical assault, domestic abuse, battery, or a drug related offense within a five year period preceding the date of the application results in denial of the application. Any applicant who has, or is living with a person who has, any criminal history for any felony or a relevant misdemeanor will be reviewed by a committee.

(C) The application is denied if the applicant has been convicted of a sex offense and subject to or married to or living with a person subject to the Oklahoma Sex ~~Offenders~~ Offender Registration Act;

(5) the age, health, or any other condition of the applicant would impede his or her ability to provide care for a child on a permanent basis into adult years;

(6) relationships in the household are unstable and unsatisfactory;

(7) the mental health of the applicant or other family or household member would impede the applicant's ability to provide care for a child;

(8) references are guarded or have reservations in recommending the applicant;

(9) the applicant does not complete the required pre-service training within one year of application, unless the applicant has previously completed Parent(s)' Resource for Information, Development and Education (PRIDE). Exceptions must be requested from the Adoption Services Section;

(10) the applicant has applied to adopt a child of a certain age, race, or other characteristic that OKDHS reasonably believes may not be available for adoption in the foreseeable future, per OAC 340:75-15-84; and

(11) one or more other factors concerning the applicant, a family, or household member or conditions in the home as described in the denial letter renders the applicant or home environment inappropriate as an adoptive resource.

340:75-15-89. Evaluation of the adoptive home after the Bridge resource family assessment

(a) **Ongoing evaluation.** ~~Adoptive~~ Bridge resource ~~homes~~ families are evaluated on a continuing basis.

(b) **Annual re-assessment.** A formal re-assessment is completed on an annual basis on each adoptive ~~home~~ resource family that does not have a child placed in the home by the adoption specialist. For resource families that have a child in the home, the foster care specialist completes the formal re-assessment.

340:75-15-91. Closure of resource family home

(a) **Basis for closure.** A resource family home is closed when:

(1) a request is made by the ~~adoptive~~ resource family;

(2) the family has completed the adoption of a child from the Oklahoma Department of Human Services and does not wish to reapply;

(3) the family has moved out of state;

(4) the family's address is unknown;

(5) the family displays a lack of interest and cooperation; or

(6) the family no longer meets standards as found in OAC 340:75-15-88(d).

(b) **Procedures.** Specific procedures are followed to close ~~an adoptive~~ a resource family home.

[OAR Docket #09-512; filed 3-26-09]

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

[OAR Docket #09-513]

RULEMAKING ACTION:
PERMANENT final adoption
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)
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.
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ANALYSIS:
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); and 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.

CONTACT PERSON:

Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 15, 2009:

SUBCHAPTER 3. ADMINISTRATION

PART 1. GENERAL ADMINISTRATION

340:100-3-4. Service ~~recipients'~~ recipient personal funds

(a) **General information.** Each ~~person~~ service recipient receiving services from Developmental Disabilities Services Division (DDSD) is ~~assured~~ ensured access to his or her personal funds.

(1) Personal funds ~~means~~ include income from all sources, earned or unearned, and assets. ~~Income is money received in the current month. If any income is not used to meet the service recipient's needs during the current month, the remaining funds become a resource or asset of the service recipient in the following month.~~

(A) Income is money received in the current month.

(B) Any income not used to meet the service recipient's needs during the current month is a resource or asset of the service recipient in the following month(s).

~~(2) Provider agency staff, the service recipient's representative payee, and DDSD staff assist the service recipient in avoiding financial exploitation by others.~~

(~~3~~2) Services do not include the provision of room and board or personal spending. Each service recipient is responsible for meeting his or her room and board and personal spending needs including, but not limited to healthcare, medications and co-pays not provided by Medicare, Medicaid, or other health insurance, legal fees, vacation costs, recreation and social expenses, educational expenses, clothing, furniture or household items except as provided by OAC 340:100-5-22.5. After the service recipient's day-to-day needs for food and shelter are met, personal funds may be used for ~~his or her personal~~ the service recipient's needs such as recreation, clothing, and other expenses. The provider agency staff and ~~the~~ Personal Support Team (Team) work with the service recipient, as needed, to ensure ~~that~~ all needs are met.

(b) **Prohibited transactions.** ~~Neither provider~~ Provider agency and ~~staff members nor~~ DDSD employees ~~engage~~ are prohibited from engaging in any financial transaction with ~~the~~ a service recipient, including:

(1) giving gifts to ~~the~~ a service recipient with a cumulative annual value ~~greater~~ more than $100;

(2) accepting gifts from ~~the~~ a service recipient with a cumulative annual value ~~greater~~ more than $20;

(3) selling, purchasing, leasing, or trading any ~~item(s)~~ item except:

(A) as part of an established business in which fair market value is received; or

(B) when approved in advance in writing by the Team;

(4) borrowing personal funds or any item of value from ~~the~~ a service recipient; and

(5) loaning funds to ~~the~~ a service recipient, except:

(A) loaning ~~very~~ small amounts, such as money for a meal or a recreational activity, for periods of time ~~under~~ less than 24 hours; or

(B) as part of a program authorized in advance in writing by the Team.

(c) **Living expenses.** The provider agency: ~~may lend funds to a service recipient to cover the service recipient's living expenses in expectation that funds will be available in the future that enable the service recipient to repay the loan. In such a situation, the provider agency submits ongoing written reports to the Team regarding the status of the service recipient's financial condition.~~

(1) may lend funds to a service recipient to cover the service recipient's living expenses in expectation that funds will be available in the future that enable the service recipient to repay the loan; and

(2) must submit ongoing written reports to the Team regarding the status of the service recipient's financial condition and the status of the loan or repayment.

(d) **Protection of personal funds.** ~~The provider agency safeguards the personal funds of the service recipient when such safeguarding has been determined necessary by the person's Team and authorized by the service recipient or guardian or when the provider is designated as the representative payee. In accordance with OAC 340:100-3-1.2, each service recipient has the right to manage, be taught to manage, and have assistance in managing his or her financial affairs and to have access to all financial records regarding his or her personal funds. Staff who have access to, or assist the service recipient with, the service recipient's personal funds, assure that:~~

(1) The provider agency retains, safeguards and accounts for the service recipient's personal funds when

determined necessary by the service recipient's Team and as authorized by the service recipient, applicable guardian, or when the provider agency is the representative payee.

(2) Per OAC 340:100-3-1.2, each service recipient has the right to manage, be taught to manage, receive assistance in managing his or her financial affairs, and access all financial records regarding his or her personal funds.

(3) Staff who have access to or assist the service recipient with personal funds, ensures:

(~~1~~A) ~~the~~ service recipient's personal funds are not co-mingled with provider agency funds;

(~~2~~B) a separate financial record is maintained for each service recipient that includes receipts for all expenditures that are:

(~~A~~i) ~~over~~ more than ~~$5~~ five dollars; and

(~~B~~ii) made with provider agency staff involvement;

(~~3~~C) a written accounting of the service recipient's personal funds is maintained;

(~~4~~D) a summary of financial transactions is available to the service recipient, guardian, DDSD case manager, and the Office of Client Advocacy (OCA) advocate, if involved:

(~~A~~i) monthly; and

(~~B~~ii) when the service recipient ceases receiving service from the provider agency;

(~~5~~E) copies of the written accounting and ~~the~~ summary of financial transactions are provided to the service recipient, guardian, ~~and~~ case manager, and OCA advocate if involved, upon request.

(~~6~~F) ~~the~~ service recipient's personal funds account is reconciled at least monthly by ~~a~~ provider agency staff ~~member~~ who does not have authority to disburse funds from~~,~~ or responsibility to deposit funds to~~,~~ the account;

(~~7~~G) documentation is maintained to support all transactions involving the service recipient's personal funds ~~which~~ that are not independently controlled by the service recipient;

(~~8~~H) ~~the~~ service recipient's income is deposited to ~~his or her~~ the service recipient's personal account within seven days of receipt;

(~~9~~I) ~~if~~ when the service recipient's income is held in an interest bearing account, the interest accrues to the service recipient;

(~~10~~J) any personal cash ~~which is~~ not in the service recipient's possession is properly protected against theft;

(~~11~~K) ~~the~~ service recipient receives requested funds within one banking day of ~~the~~ request;

(~~12~~L) ~~the~~ service recipient, parent of a minor service recipient, guardian, or representative payee, as applicable, and ~~the~~ DDSD case manager are advised of eligibility requirements when the service recipient's account accumulates $1200~~;~~ unless the Plan includes specific provisions to maintain Medicaid eligibility;

(~~13~~M) service recipient's personal funds are not used to supplement service rates or to purchase items ~~which~~ that are part of the services that the service recipient is currently authorized to receive;

(~~14~~N) prior to receiving services from a provider agency, a written agreement is executed between the service recipient, ~~his or her~~ or guardian~~,~~ as applicable, ~~family, or advocate~~ and ~~the~~ provider agency. ~~A copy~~ Copies of the agreement ~~is given~~ are provided to each party~~,~~ and ~~a copy remains~~ filed in the service recipient's record. The agreement includes:

(~~A~~i) ~~the~~ responsibilities of the provider agency to the service recipient in handling the service recipient's personal funds;

(~~B~~ii) ~~the~~ service recipient's fiscal responsibilities; and

(~~C~~iii) services for which the service recipient's personal funds must be used;

(~~15~~O) all requested financial information necessary for the maintenance of the service recipient's financial eligibility is provided to ~~the~~ Oklahoma Department of Human Services (OKDHS) and the Social Security Administration in a timely manner; ~~and~~

(~~16~~P) ~~each~~ service recipient receives choices in the selection of stores for the purchase of food, clothing, and personal items~~.~~; and

(Q) service recipient's personal funds are not used to make permanent modifications to a home not owned by the service recipient.

(4) Allegations of exploitation must be reported in accordance with OAC 340:2-3-33. When a provider agency is a service recipient's representative payee, it must fulfill its duties in accordance with applicable federal regulations which define those duties.

(e) **Team planning and assistance to manage personal funds.** The Team may limit, but not totally deny, a service ~~recipient's~~ recipient without a guardian access to or use of his or her personal funds only when a determination is made, ~~in accordance with this subsection~~ per OAC 340:100-3-4, that the limitation is essential to prevent the service recipient from unreasonably or significantly dissipating his or her personal funds.

(1) The Team follows rules ~~established in~~ per OAC 340:100-3-1.2.

(2) Regular allowances or spending programs may be implemented on an individual basis, provided it is requested by the service recipient, guardian, or parent of a minor service recipient and reviewed by the service recipient's Team. The specific amount of the allowance is documented in the service recipient's ~~plan~~ Individual Plan (Plan). An allowance consists of a fixed amount of money ~~that is~~ regularly given to the service recipient to spend as he or she wishes.

(3) Justification for limiting access to and use of personal funds is documented in the service recipient's ~~plan~~ Plan. The Team develops a ~~plan~~ Plan to remove the restriction and includes specific dates to review the ~~plan~~ Plan.

(4) The Team ~~assures~~ ensures the service recipient is afforded due process prior to implementation of any financial restrictions.

(5) When determining whether ~~or not~~ to limit a service recipient's access to ~~his or her~~ personal funds, the Team addresses whether the service recipient:

(A) is able to recognize currency, ~~and~~ coins, and ~~their~~ value of such;

(B) does not regularly lose money ~~regularly~~;

(C) does not leave money lying around;

(D) does not give money away;

(E) has the ability to make change or knows when to wait for change;

(F) shows responsible behavior regarding his or her money, paying bills on time, writing checks only when he or she has sufficient funds, and saving or planning for special items;

(G) understands his or her responsibility to pay room and board expenses; and

(H) understands budgeting so money will last all month.

(f) **Payee responsibilities.** In addition to the requirements of ~~subsections (a) through (e) of this Section,~~ OAC 340:100-3-4 ~~individuals~~ persons and organizations serving as representative payee for a service recipient's personal funds are responsible for ~~obtain~~ obtaining a copy of the dispersing agency's regulations regarding representative payee responsibilities and ~~adhere~~ adhering to the dispersing agency's requirements ~~regarding payee responsibilities~~.

(1) The service recipient, ~~his or her~~ guardian, or representative payee ~~or conservator~~ is responsible for paying for room and board from the service recipient's income.

(2) A provider agency serving as payee uses direct deposit of benefits, if available.

340:100-3-5. Advocacy and guardianship

(a) **Purpose.** Developmental Disabilities Services Division (DDSD) Advocacy and Guardianship Program identifies the advocacy needs of each service recipient to protect the service recipient's interests, rights, and welfare.

(1) Although a service recipient may have other advocates, only a guardian may act on behalf of his or her ward, per OAC 340:100-1-2, to the extent authorized in the guardianship order and Title 30 of the Oklahoma Statutes (O.S.).

(2) Each guardian is:

(A) responsible for representing the interest of his or her ward as provided by Oklahoma law; and

(B) obligated to involve the ward in decision-making to the extent ~~that~~ the ward is able.

(3) An advocate is responsible for assisting the service recipient to represent the interests of the service recipient.

(b) **Capacity to give informed consent.** Service recipients, age 18 or older, are presumed to have capacity to give informed consent except to the extent adjudicated incapacitated by the court. A service recipient:

(1) is not considered incapacitated solely by reason of his or her diagnosis or admission to:

(A) Northern Oklahoma Resource Center of Enid (NORCE);

(B) Southern Oklahoma Resource Center (SORC); or

(C) Robert M. Greer Center (Greer);

(2) may be adjudicated incapacitated in one area while being fully capable of understanding and exercising his or her rights in other areas; and

(3) has the right to exercise judgment in all areas of capacity.

(c) **Assessment of capacity to give informed consent.** Each service recipient's current need for advocacy or guardianship services is reviewed at least annually and documented in the ~~Needs Assessment or~~ Individual Plan (Plan).

(1) Form 06MP032E, Capacity Assessment, is:

(A) used to determine the service recipient's capacity to give informed consent and identify the type of assistance, if any, the service recipient needs to make life decisions and be protected from ~~abuse, neglect, and exploitation~~ maltreatment; and

(B) completed for each:

(i) adult and minor attaining the age of 17 $\frac{1}{2}$ years, who receives residential services through the Community Waiver or Homeward Bound Waiver;

(ii) child in OKDHS custody who receives DDSD services upon reaching the age of 16 per OAC 340:75-8-39; and

(iii) resident older than age 17 $\frac{1}{2}$ residing in:

(I) NORCE;

(II) SORC; or

(III) Greer.

(2) In order for the Assessment Team to meet to complete Form 06MP032E, all members are notified of the meeting at least two weeks in advance and offered the opportunity to provide written input if they cannot attend. The Assessment Team includes:

(A) all members of the Personal Support Team;

(B) the service recipient's primary physician, if the service recipient resides at NORCE, SORC, or Greer; and

(C) a licensed psychologist or psychiatrist, if the service recipient resides at NORCE, SORC, or Greer.

(3) For service recipients who do not receive residential services per OAC 340:100-5-22:

(A) a capacity assessment is not required. If the family or service recipient wishes to complete a capacity assessment, the DDSD case manager includes this assessment as an outcome in the Needs Assessment or Plan, and the family participates in the assessment process; and

(B) a review of the service recipient's ~~legal status~~ need for advocacy or guardianship must occur annually beginning at age 17$\frac{1}{2}$, and be addressed in the Needs Assessment, using Forms 06MP033E, Guardianship, Advocacy, and Capacity Initial Review, and 06MP034E, Guardianship, Advocacy, and Capacity Annual Review. If this review indicates

needs in the area of advocacy, the DDSD case manager offers a capacity assessment.

(d) **Recommendations of Assessment Team.** DDSD supports the use of less restrictive alternatives to guardianship.

(1) The Assessment Team recommends guardianship after they have considered and ruled out less restrictive alternatives to guardianship. Alternatives include, but are not limited to:

(A) guidance and support from family or friends;

(B) volunteer advocate;

(C) modification of the Plan to more effectively meet the service recipient's health, safety, and financial needs;

(D) representative payee;

(E) limited bank accounts;

(F) power of attorney, durable power of attorney, or durable power of attorney with health care powers;

(G) Advance Directive for Health Care;

(H) trust fund; or

(I) conservatorship.

(2) If Form 06MP032E indicates that a guardian is needed, the Personal Support Team recommends an appropriate person to serve.

(A) Priority for persons to serve as guardians is given to:

(i) any person nominated by the service recipient pursuant to Section 3-102 of Title 30 of O.S. (30 O.S. § 3-102);

(ii) a current guardian appointed by an appropriate court in another jurisdiction;

(iii) a person nominated by will or other writing of a deceased parent, spouse, or adult child who was serving as the service recipient's guardian pursuant to 30 O.S. § 3-103;

(iv) the spouse of the service recipient;

(v) an adult child of the service recipient;

(vi) a parent(s) of the service recipient;

(vii) a sibling of the service recipient;

(viii) a person with whom the service recipient has been living for more than six months prior to the filing of the petition for guardianship. ~~OKDHS providers~~ Providers subject to the provisions of the Nursing Home Care Act, Residential Home Care Act, or Group Home for Developmentally Disabled or Physically Handicapped Persons Act must not be appointed guardian of such service recipient unless the provider is the service recipient's spouse, ~~a relative within the second degree of consanguinity, such as~~ mother, father, sibling, adult child, aunt, uncle, ~~niece, nephew,~~ grandparent, ~~and~~ or adult grandchild; or

(ix) other relatives of the service recipient, such as ~~grandparent, grandchild, aunt, uncle~~, niece, ~~or~~ nephew~~;~~, or cousin.

~~(x) other relatives of the service recipient who are not residents of Oklahoma, per 30 O.S. § 4-104.~~

(B) If an appropriate relative is not available, a volunteer is sought in accordance with OAC 340:100-3-5.1.

(e) **Guardianship eligibility requirements.**

(1) A guardian must:

(A) be at least 18 years of age;

(B) be a resident of Oklahoma for at least one year, except as provided in 30 O.S. § 4-104; ~~and~~

(C) not be under any financial obligation to the proposed ward~~.~~; and

(D) disclose to the Personal Support Team and to the court any potential conflict of interest that may preclude acting in the best interest of the proposed ward.

(2) An incapacitated or partially incapacitated person cannot be appointed guardian.

(3) A convicted felon cannot be appointed guardian, except upon:

(A) further review by the court into the nature of the felony; and

(B) court approval.

(f) **Responsibilities of a guardian.**

(1) The guardian:

(A) is responsible for protecting the rights of the ward per 30 O.S. § 1-103;

(B) files the Plan for the Care and Treatment of the Ward, with the court within ten days of appointment as guardian;

(C) files Administrative Office of the Courts (AOC) Form 34, Report on the Guardianship of the Person, AOC Form 34a, Report on the Guardianship of Property, or both, with the court. Assistance in completing these annual reports may be obtained from the DDSD case manager or guardianship coordinator. The guardian may also hire an attorney to prepare annual reports for a fee;

(D) has a legal duty to:

(i) know the service recipient, including his or her capabilities, needs, and physical and mental health;

(ii) maintain contact with the service recipient;

(iii) ensure the service recipient is living in the least restrictive environment that meets his or her needs;

(iv) provide necessary consents authorized by the court; and

(v) notify the court if the service recipient's incapacity has ended; and

(E) has limited authority pursuant to 30 O.S. § 3-119 and the guardianship order that sets forth the limitation of powers of a guardian by prohibiting the guardian from consenting on behalf of the ward to the withholding or withdrawal of life-sustaining procedures except with specific authorization of the court having jurisdiction over the guardianship proceedings. Authorization must be granted in a separate court order and only at such time when the ward is in need of life-sustaining treatment.

(2) When performing duties and exercising authority, the guardian:

(A) ensures the interests, rights, and welfare of the ward are protected;

(B) may act independently, if necessary, from provider agency staff and DDSD staff;

(C) encourages the ward to:

(i) participate to the maximum extent possible in all decisions that affect the ward; and

(ii) act on all matters in which the ward is able to do so within the limitations imposed by the court; and

(D) as appropriate, assists the ward to develop or regain, to the maximum extent possible, his or her capacity to meet the essential requirements for health or safety.

(g) **Changes in guardianship.** The ward, any person interested in the welfare of the ward, or a guardian may make application to the court for:

(1) termination of the guardianship;

(2) removal of a guardian;

(3) imposition of additional restrictions or the removal of existing restrictions; or

(4) a review hearing.

(h) **Special guardianships.** The Advocacy and Guardianship Program assists service recipients who are in need of a temporary surrogate to obtain consent for non-emergency medical and dental procedures or to protect the service recipient's money, property, or assets at risk of loss or exploitation through a process to establish special guardianship.

(~~h~~i) **Costs and fees.** Court costs are not charged for filing guardianship petitions and reports for persons who are applicants for or recipients of Social Security, per 56 O.S. § 192.

(~~i~~j) **Responsibilities of OKDHS Legal Division.** If a guardian cannot be found for a resident of NORCE, SORC, or Greer, OKDHS Legal Division has the authority, per 10 O.S. § 1415, to file a petition for the appointment of a guardian ad litem for the service recipient.

(1) Legal Division attorneys do not provide any legal services to any other party or potential party in guardianship cases.

(2) The only legal services provided are to ensure compliance with 10 O.S. § 1415. No other legal services in connection with these guardianships are provided directly or indirectly by OKDHS.

340:100-3-5.1. Volunteer ~~guardianship~~ guardians and advocates

(a) **Purpose.** Developmental Disabilities Services Division (DDSD) contracts with an agency to maintain a system to recruit, screen, match, monitor, and support volunteer guardians and advocates for eligible service recipients. To be eligible, the service recipient must:

(1) be assigned a DDSD case manager;

(2) have been determined through the capacity assessment process, per OAC 340:100-3-5, to need a guardian or volunteer advocate; and

(3) if volunteer guardianship is recommended; have no ~~relative~~ appropriate relative willing to serve as guardian.

(b) **Responsibilities of DDSD.**

(1) When the need for a guardian or advocate has been determined through the capacity assessment process, per OAC 340:100-3-5, ~~and a potential guardian is not identified by the Assessment Team,~~ the DDSD case manager forwards Form 06MP032E, Capacity Assessment, with a recommendation for a volunteer guardian or advocate to the DDSD case management supervisor. ~~Documentation~~ If volunteer guardianship is recommended, documentation of attempts made to locate a guardian, among those who are eligible per OAC 340:100-3-5, must be included.

(2) The DDSD case management supervisor reviews the documents, and~~,~~ if approved, forwards the documents to the guardianship coordinator.

(3) The guardianship coordinator reviews Form 06MP032E and, if approved, makes a referral to the volunteer guardianship agency to initiate the process to recruit a volunteer guardian or advocate.

(c) **Volunteer guardianship eligibility requirements.** In addition to requirements per OAC 340:100-3-5, eligibility criteria for volunteer guardians listed in (1) through (6) apply.

(1) A corporate officer, member of the board of directors, owner, operator, administrator, or employee of a facility subject to provisions of Section 1-1901 et seq. of Title 63 of the Oklahoma Statutes (63 O.S. § 1-1901 et seq.) or 10 O.S. § 1430.1 et seq. or any other DDSD provider is ineligible to be appointed volunteer guardian of a person receiving services from that provider agency or provider.

(A) An immediate family member, spouse, parent, sibling, or adult child of an ineligible person cannot serve as a volunteer guardian.

(B) An extended family member of an ineligible person cannot serve as a volunteer guardian when there is evidence that financial interdependence exists.

(2) Employees of DDSD cannot serve as volunteer guardians.

(A) An immediate family member, spouse, parent, sibling, or adult child of the DDSD employee cannot serve as a volunteer guardian, if the employee is a member of the service recipient's Personal Support Team (Team).

(B) An extended family member of the DDSD employee cannot serve as a volunteer guardian when there is evidence that financial interdependence exists, and the employee is a member of the service recipient's ~~Personal Support Team~~ Team.

(3) Any exceptions to the selection of a volunteer guardian, per OAC 340:100-3-5.1(c)(1) and (2) must be approved by the DDSD director or designee.

(4) Employees of Oklahoma Department of Human Services (OKDHS) cannot serve as volunteer guardians for residents of Northern Oklahoma Resource Center of Enid (NORCE), Southern Oklahoma Resource Center

(SORC), or Robert M. Greer Center (Greer), per 10 O.S. § 1415.

(5) Potential guardians must:

(A) pass a background check including, but not limited to a check of the OKDHS Community Services Worker Registry;

(B) possess the willingness and ability to devote time and energy to serve as guardian;

(C) be certified by the volunteer guardianship agency; and

(D) approved by the ~~Personal Support~~ Team.

(6) A volunteer guardian:

(A) supports the philosophy and values consistent with the DDSD mission statement per OAC 340:100-1-3.1; and

(B) serves no more than two wards unless approved in advance in writing by the DDSD director or designee.

(d) **Volunteer advocate eligibility requirements.** DDSD supports the recruitment of volunteers from outside the service delivery system to avoid potential conflicts of interest.

(1) Non-DDSD OKDHS employees, contract providers, and employees of contract providers may serve as volunteer advocates when:

(A) an ongoing relationship exists with the service recipient; and

(B) they are not providing direct services to the service recipient and are not employed by a provider agency or OKDHS division that provides services to the service recipient.

(2) DDSD employees may not serve as volunteer advocates.

(3) Any exceptions to the selection of a volunteer advocate, per OAC 340:100-3-5.1 must be approved by the DDSD director or designee.

(~~d~~e) **Responsibilities of a volunteer guardian.** The responsibilities of a volunteer guardian are outlined in OAC 340:100-3-5.

(f) **Responsibilities of a volunteer advocate.** A volunteer advocate assists the service recipient in making decisions and supports the service recipient in preserving his or her rights and obtaining necessary services. Such support may include:

(1) advocating for the service recipient;

(2) assisting the service recipient in decision making;

(3) reviewing the quality of services provided to the service recipient;

(4) attending the Individual Plan (IP) meeting or other meeting(s);

(5) assisting the service recipient with finances;

(6) accompanying the service recipient to medical appointments; or

(7) assisting the service recipient in completing applications.

(g) **Responsibilities of a temporary volunteer advocate.** The assistance of a temporary advocate is requested when a service recipient or Team seeks a guardianship dismissal in order to restore full decision making rights to the service recipient. The responsibilities of a temporary volunteer advocate include:

(1) filing a petition on behalf of the service recipient as an interested party so the request for restoration of capacity can be heard in court; and

(2) after capacity is restored, continuing to be available to the service recipient for support and guidance for a period of no more than six months.

(~~e~~h) **Guardianship voucher.** ~~After certification by the volunteer guardianship agency and approval by the Personal Support Team and, if able, the service recipient, the~~ The volunteer applies for and receives Form 06MP031E, Guardianship Voucher, per OAC 340:100-3-5.2, to pay the attorney fee necessary to file the guardianship petition~~.~~ after certification by the volunteer guardianship agency, and approval by the Team and, if able, the service recipient. Court involvement is not required to establish volunteer advocacy, therefore the voucher is not available in such cases.

(~~f~~i) **Monitoring of volunteer guardians and advocates.** Monitoring of the volunteer ~~guardian~~ guardians and advocates is provided by the volunteer guardianship agency according to requirements specified in the OKDHS contract with the agency.

(~~g~~j) **Training requirements for volunteer guardians and advocates.** Volunteers must participate in training regarding understanding and defining advocacy, developing effective advocacy skills, working effectively with service recipients and Teams, community inclusion, Oklahoma's service delivery system, and confidentiality. Volunteer guardians must participate in additional training regarding guardianship responsibilities, duties, and limitations.

(1) Training is provided by the volunteer guardianship agency ~~with~~ at no cost to the volunteer ~~guardian~~.

(2) ~~Volunteer guardians~~ Volunteers receive orientation from volunteer guardianship agency ~~to~~ regarding applicable OKDHS rules and procedures regarding volunteer programs. ~~Volunteer guardians are informed they are not covered by 51 O.S. § 151 et seq., The Governmental Tort Claims Act, as they are not authorized to act on behalf of OKDHS, nor can they be so authorized without creating a conflict of interest in their roles as guardians.~~

(3) Volunteer guardians proceed with knowledge they are not covered by 51 O.S. § 151 et seq., The Governmental Tort Claims Act, as they are not authorized to act on behalf of OKDHS, nor can they be so authorized without creating a conflict of interest in their roles as guardians.

(~~h~~k) **Responsibilities of volunteer guardianship agency.** Duties of the volunteer guardianship agency include:

(1) recruiting volunteers to serve as guardians and advocates;

(2) obtaining background checks of potential volunteer guardians and advocates;

(3) contacting references. The volunteer guardianship agency contacts a minimum of three references. If responses are negative or if three references cannot be found, the volunteer is not considered;

(4) submitting ~~volunteer guardianship recommendations~~ proposed volunteers to the Personal Support Team for review and approval;

(5) arranging visits between potential ~~volunteer guardians~~ volunteers and service recipients;

(6) providing ~~guardianship~~ training and orientation on OKDHS rules and procedures, including 51 O.S. § 151 et seq.;

(7) monitoring in accordance with OAC 340:100-3-5.1~~(f)~~; and

(8) providing technical assistance as requested by the volunteer ~~guardian~~ or DDSD case manager, including:

(A) attending any team meetings;

(B) accompanying the volunteer on home visits;

(C) reviewing legal or specific documents or records regarding the service recipient; and

(D) providing reminders of due dates for annual court reports, and~~,~~ if needed, providing assistance to complete the reports.

340:100-3-5.2. Guardianship Voucher Program

(a) **Scope and applicability.** Pursuant to Section 1415 of Title 10 and Section 228 of Title 56 of the Oklahoma Statutes, Oklahoma Department of Human Services (OKDHS) may pay for legal fees associated with guardianship proceedings for persons who:

(1) receive Developmental Disabilities Services Division (DDSD) Home and Community-Based Services (HCBS) Waiver; or

(2) are residents of Northern Oklahoma Resource Center of Enid (NORCE), Southern Oklahoma Resource Center (SORC), and Robert M. Greer Center (Greer).

(b) **Payment.** Payment for legal services is contingent upon availability of resources and does not exceed $700 per service recipient.

(c) **Participation.** Participation in the Guardianship Voucher Program extends only to those service recipients who have been determined, per OAC 340:100-3-5, to need a service listed in OAC 340:100-3-5.2.

(d) **Services.** Payment may be made for legal services necessary to:

(1) establish guardianship;

(2) replace, change, or add a guardian;

(3) appoint a successor guardian;

(4) alter the terms or level of an established guardianship; or

~~(5) establish less restrictive alternatives such as conservatorship; or~~

(~~6~~5) restore the ward's capacity.

(e) **Subsequent services.** Requests for payment for subsequent legal services related to the guardianship of the same service recipient may be approved by the DDSD director or designee.

(f) **Eligibility.** The guardian or potential guardian applying for a voucher must be:

(1) a relative of the service recipient or a volunteer certified in accordance with OAC 340:100-3-5.1; and

(2) recommended by the DDSD Personal Support Team.

(g) **Financial eligibility.**

(1) Approved prospective volunteer guardians are exempt from financial eligibility requirements.

(2) When the spouse, mother, or father of the service recipient is applying to be the guardian, such applicant is subject to financial eligibility requirements. To be financially eligible to receive a guardianship voucher, the annual adjusted gross income of the applicant spouse or household income of the applicant mother or father of the service recipient must be $60,000 or less.

(3) Other relatives who desire to become the service recipient's guardian are exempt from the financial eligibility criteria.

(h) **Guardianship voucher application.**

(1) Form 06MP030E, Guardianship Voucher Application, is available from the DDSD case manager assigned to the service recipient, the area guardianship coordinator, resource center guardianship coordinator, or volunteer guardianship agency.

(2) The spouse, mother, or father making application for the guardianship voucher must submit required income verification, per OAC 340:100-3-5.2(i).

(3) Applications are sent to the DDSD guardianship programs manager.

(4) Any incomplete application is returned to the applicant for correction.

(5) Applications for the guardianship voucher are considered in chronological order of receipt ~~in the~~ at DDSD State Office.

(6) The number of applications approved is determined by available funding. Applications not approved during a fiscal year due to insufficient funding are placed on a waiting list in the chronological order received and are processed as funds become available.

(i) **Verification of income.** If the applicant is the spouse, mother, or father of the service recipient, verification of annual income must be provided. Acceptable forms of verification include a signed copy of the applicant's most recent federal income tax return or documentation of all sources of income from Supplemental Security Income, Temporary Assistance for Needy Families, child support, alimony, other state or federal subsidy, or other types of income.

(j) **Notification of application status.** The applicant is provided written notice of approval, denial, or placement on the waiting list of the application for the guardianship voucher within 30 calendar days of receipt of completed Form 06MP030E ~~in~~ at DDSD State Office.

(k) **Issuance and expiration of guardianship voucher.** When an application for the guardianship voucher is approved, dated Form 06MP031E, Guardianship Voucher, is issued to the applicant who then seeks and retains legal counsel. Each Form 06MP031E is approved for use from the date of issuance and is valid for 365 days from the date of issuance.

(l) **Submitting voucher for payment.** Upon completion of the guardianship proceedings, the attorney who provides the service submits Form 06MP031E to DDSD State Office for

payment. A copy of all pleadings filed, the letters of guardianship, the guardianship order, Plan for the Care and Treatment of the Ward, and an itemized bill for legal services must be attached to Form 06MP031E. Form 06MP031E and required documentation must be received by the DDSD guardianship programs manager within 365 days from the date of issuance, or Form 06MP031E expires and is null and void.

(m) **Fair hearing.** Any person who has been denied a voucher may request a hearing in accordance with OAC 340:2-5.

PART 3. ADMINISTRATION

340:100-3-33. Service authorization

~~Services are prescribed as a result of determination by an IDT and informed consumer selection and authorized and implemented per provisions of DHS and DDSD policy and procedures. Authorization of services is contingent upon the availability of adequate resources.~~

~~(1) All authorized, state funded services are implemented in accordance with DHS purchasing and contract policy and procedures.~~

~~(A) No more than 12% of the individuals reflected on any provider agency claim for state funded services (e.g., group home, sheltered workshop, Community Integrated Employment) shall have a measured intelligence (full scale IQ) in excess of 70 (see OAC 340:100-3-1), except;~~

~~(B) This cap shall be waived:~~

~~(i) in cases where it is exceeded as a result of inclusion of individuals approved for services prior to 1-1-90. However, additional individuals with a measured intelligence of above 70 are not authorized for admission to state funded services through the provider agency until the percentage of individuals served with a measured intelligence (full scale IQ) exceeding 70 is reduced to 12% or less; or~~

~~(ii) upon authorization by the Administrator of DHS/DDSD or his/her designee.~~

(a) Developmental Disabilities Services Division (DDSD) provides services using state and federal funds.

(~~2~~1) All Medicaid services are implemented in accordance with Title XIX ~~(ICF-MR; HCBS Waiver)~~ regulations ~~or provisions, including freedom of choice requirements, of the HCBS Waiver and aggregate expenditure/recipient limitations established by HCFA, except; children eligible to receive services through public schools shall not be authorized for the same services through DHS/DDSD during the regular school session~~.

(2) Oklahoma Health Care Authority (OHCA) authorizes Title XIX compensability of all Home and Community-Based Services (HCBS) Waiver and intermediate care facility for persons with mental retardation (ICF/MR) services.

(3) HCBS Waiver services are included in the service recipient's Plan of Care (POC) and are identified in accordance with OAC 340:100-5-53.

(4) Facility administrators of Northern Oklahoma Resource Center of Enid (NORCE), Southern Oklahoma Resource Center (SORC), and Robert M. Greer (Greer) are authorized to approve habilitation and support services required by the service recipient's individual program plan and regulatory standards, including the purchase of adaptive and mobility equipment.

(5) All authorized state-funded services are implemented in accordance with Oklahoma Department of Human Services (OKDHS) purchasing and contract policy and procedures. Authorization of services is contingent upon the availability of adequate resources.

(~~3~~b) ~~Case Managers are authorized to~~ DDSD case managers may implement services ~~prescribed for a client and documented within the IHP/Plan of Care, as follows~~ that are:

(~~A~~1) ~~Generic~~ generic non-specialized services ~~are to be~~ accessed ~~where~~ when possible;

(~~B~~2) ~~Services are authorized~~ approved for DDSD payment;

(3) identified in the service recipient's POC.

(~~C~~A) ~~Authorization~~ The amount of HCBS Waiver services ~~within an individual's plan of care does~~ must not exceed service specific utilization limitations ~~established within Oklahoma's Title XIX included in the applicable HCBS Waiver;~~ and comply with related OHCA policy.

(~~D~~B) ~~The total~~ Total expense of ~~HCBW~~ HCBS Waiver services ~~does~~ must not exceed the statewide congregate average annual cost of ~~HCBW~~ HCBS Waiver services per ~~client; and~~ service recipient.

(C) The total POC cost must not exceed annual per capita limitations, if any, established in the applicable HCBS Waiver; and

(~~E~~4) ~~Other services not addressed in the IHP~~ State funds are approved to meet critical needs when there is no other resolution and funds are necessary to resolve an emergency, ~~i.e.,~~ such as necessary utilities, ~~ambulance,~~ clothing, furniture, food and shelter. ~~not to~~ Funds cannot exceed ~~DDSD expenditures of~~ $750.00 per event.

(~~4~~c) ~~Area Managers~~ The DDSD area manager or ~~his/her~~ designee ~~are authorized to~~ must review and approve ~~services exceeding the scope of authority of Case Mangers as follows~~ implementation of expenditures for:

(~~A~~1) ~~Expenditures for HCBW~~ HCBS Waiver services prescribed for a ~~client~~ service recipient on the ~~Plan of Care~~ POC, exceeding the statewide, congregate average annual HCBS Waiver expenditure by 35% or less per year; and

~~(B) Review and approval of expenditures requiring competitive bid (i.e., for Transportation and Adaptive Equipment and Architectural Modification services) of $750.00 or less.~~

(2) short term emergency services required to meet critical needs and ensure the continuity of care when no other resolution exists.

(~~5~~d) The ~~Administrator of~~ DDSD director or ~~his/her~~ designee ~~reviews~~ must review and ~~authorizes the following~~ approve implementation of:

(~~A~~1) ~~Expenditures~~ expenditures for ~~HCBW~~ HCBS Waiver services exceeding the statewide, congregate~~,~~ average~~,~~ annual cost of ~~HCBW~~ HCBS Waiver services by more than 35%~~.~~; and

(~~B~~2) ~~The implementation of~~ support or habilitative services not otherwise authorized by OKDHS policy, subject to approval by ~~the~~ OKDHS Director, ~~of DHS and/or the~~ Oklahoma Commission for Human Services~~.~~ or both.

~~(6) The DHS Medical Services Division reviews and authorizes Title XIX compensability of all HCBW and ICF-MR services.~~

~~(7) The Board of Affairs authorizes state funded expenditures, for services requiring competitive bid (i.e., Transportation, Architectural Modification, and Adaptive Equipment), in excess of $750.00, following competitive bidding procedures established by state law and DHS policy.~~

~~(8) Superintendents of Public ICF's-MR are authorized to approve the following:~~

~~(A) Habilitation and support services required by each client as defined by Individual Habilitation Plans and regulatory standards, including the purchase of adaptive and mobility equipment;~~

~~(B) The transition or discharge of clients from institutional services.~~

~~(9) Consumers maintain the right to appeal service eligibility determinations as stipulated by Oklahoma's State Medicaid Plan and DHS rules. Consumers are provided literature and an understandable explanation describing procedures for exercising this right.~~

(e) Service recipients:

(1) maintain the right to appeal service eligibility determinations as stipulated by the Oklahoma State Medicaid Plan and OKDHS policy; and

(2) are provided literature and an understandable explanation describing procedures for exercising this right.

340:100-3-35. Death of a ~~person receiving~~ DDSD ~~services~~ service recipient

(a) **Death of ~~any person receiving~~ a DDSD ~~services~~ service recipient.** ~~If a person receiving~~ Upon the death of a DDSD ~~services~~ service recipient ~~dies~~, the DDSD area manager, ~~resource center administrator~~ public intermediate care facility for the mentally retarded (ICF-MR) administrator, or their designee ensures immediate notification of the DDSD ~~State Medical Director and Division Administrator~~ division administrator or ~~designee(s)~~ designee.

(b) **Death of a person receiving residential services.** If a person receiving community residential supports ~~as defined in~~ per OAC 340:100-5-22.1, ~~resource center~~ public ICF-MR services~~;~~, or waiver funded group home services dies, the area manager, ~~resource center~~ public ICF-MR administrator~~,~~ or their designee implements procedures, as appropriate, to ensure immediate notification of:

(1) the ~~person's~~ service recipient's family member(s), ~~or~~ guardian, or both by case management staff or provider agency staff;

(2) the office of the Chief Medical Examiner, ~~in accordance with~~ per Section 938 of Title 63 of the Oklahoma Statutes;

(3) the County Sheriff's office or the city police department, ~~as well as the District Attorney,~~ in the event of accidental, suicidal, or homicidal death;

(4) the ~~Division of~~ Children and Family Services Division if the ~~person~~ service recipient was under the age of 18~~,~~ and ~~if~~ there is suspicion ~~that~~ the death was the result of abuse or neglect~~, in accordance with~~ per OAC 75:3-9.1;

(5) the Office of Client Advocacy in the event of the death of a Hissom class member or a ~~person served at~~ resident of a public ~~Intermediate Care Facility for the Mentally Retarded (ICF/MR)~~ ICF-MR;

(6) the state office of Adult Protective Services, if the ~~death of an~~ person is a vulnerable adult ~~receiving community services provides reasonable~~ and there is suspicion the death was a result of abuse or neglect; and

(7) the state office of DDSD Quality Assurance~~,~~ for administrative inquiry ~~in accordance with~~ per OAC 340:100-5-27, if there is any concern ~~raised with regard to~~ the death ~~that~~ could pose a risk to others served by the agency~~; and~~.

~~(8) other individuals whose notification is required by litigation.~~

(c) **~~Death~~ Mortality review.** A ~~death~~ mortality review is a systematic review of circumstances surrounding the death of a ~~person~~ service recipient receiving community residential supports, ~~resource center~~ public ICF-MR services, or waiver funded group home services~~;~~ and is conducted to:

(1) identify ~~practices or rules in need of amendment~~ areas of concern related to the health and safety of service recipients;

(2) ~~determine whether personnel action is warranted~~ identify practices or rules in need of revision; and

(3) recommend strategies for ~~service enhancement~~ quality improvement on a local or statewide basis.

(d) **~~Death~~ Mortality reviewer.** When a person receiving community residential ~~services~~ supports, public ICF-MR services, or waiver funded group home services dies, the area manager, public ICF-MR administrator, or their designee ~~names~~ assigns a ~~Reviewer~~ reviewer from a designated pool of trained DDSD ~~Death Reviewers~~ mortality reviewers.

(e) **Provider agency policies.** Each provider agency establishes and implements policies and procedures ~~which~~ that describe actions taken in response to the death of a ~~person receiving services~~ service recipient, including notification of the DDSD area manager or designee.

(f) **Provider agency responsibilities.** Each residential service provider, including specialized foster care providers:

(1) immediately notifies the DDSD area manager, ~~resource center administrator,~~ or designee;

(2) immediately notifies the ~~person's~~ service recipient's family member(s), ~~or~~ guardian or both;

(3) assists the DDSD area manager, resource center administrator, or designee, if requested, in notification of authorities, as described in ~~subsection (a) of~~ this Section;

(4) immediately relinquishes to DDSD the residential ~~or vocational~~ record ~~or both~~, or supplies a legible, complete photocopy;

(5) secures written ~~incident~~ witness statements from all staff who worked with the ~~person receiving services~~ service recipient 24 hours prior to the ~~person's~~ death unless otherwise specified by the mortality reviewer;

(6) assists the DDSD reviewer in coordinating witness interviews and other needs; ~~and~~

(7) preserves the scene of death; and

(8) completes Form 06MP046E per OAC 340:100-3-34.

(g) **Law enforcement.** DDSD staff and contract providers cooperate fully with law enforcement authorities in the investigation of the death of ~~an individual receiving services~~ the service recipient.

340:100-3-38.5. Training requirements for staff providing supports in family's or service recipient's home through an In-Home Supports Waiver

(a) **Applicability.** OAC 340:100-3-38.5 sets forth training requirements for staff providing direct supports funded through an In-Home Supports Waiver (IHSW) in the family's or service recipient's home. Staff providing employment supports must complete training per OAC 340:100-3-38.2.

(b) **New employee training.** No later than 30 days following the date of hire, staff providing direct supports or supervising at any level the delivery of direct supports must complete the first available Developmental Disabilities Services Division (DDSD) approved foundation training course and effective teaching course. The first available class is the first unfilled class held within 60 miles of the staff's work location following the staff's date of hire.

(c) **First aid and cardio-pulmonary resuscitation (CPR).** All direct support staff must be certified in an approved course of first aid and CPR before providing services alone or with other untrained staff.

(1) First aid and CPR certification of each staff must occur within 90 days following employment.

(2) The service recipient's Personal Support Team (Team) may determine, based on the service recipient's needs, staff must receive first aid and CPR certification in less than 90 days.

(d) **Medication administration training.** Staff must be certified in an approved medication administration course, per OAC 340:100-3-38.10, before administering medication to a service recipient or assisting with a service recipient's medication support plan.

(e) **Individual-specific in-service training.** Individual-specific in-service training is identified for direct support staff in the service recipient's Individual Plan (Plan) for implementation and consistency of supports and programs and to ensure the service recipient's health and welfare.

(1) The service recipient's Team specifies required time frames for completion of individual-specific in-service training. If time frames are not identified in the Plan, required individual-specific in-service training must be completed before working with the service recipient.

(2) As the service recipient's needs require changes in supports or programs, the Team documents in the Plan, or in addenda to the Plan, any new or additional in-service training required, with time frames for completion.

(3) The Team identifies the person responsible for providing individual-specific training and verifies staff has knowledge and skills necessary to provide the identified services. Videos may be used when approved by the Team.

(f) **Job-specific training.** Staff must complete:

(1) within 90 days after date of assignment, Health course; and

(2) within six months after date of assignment:

(A) Communication course; and

(B) Skill Building course.

(g) **Specialized training.** Additional specialized training courses may be required for direct support staff working with service recipients who have significant health and physical support issues or behavior support issues.

(1) If specialized health and physical support training courses are identified in the Plan, staff must complete the courses before working alone or with other untrained staff, but no later than 60 days after starting work with the service recipient.

(2) Staff serving a service recipient with a protective intervention plan that includes non-restrictive intervention techniques must be trained on these techniques before use.

(3) Completion of an approved behavior support course is required for direct support staff serving a service recipient with a protective intervention plan that:

(A) addresses challenging behavior that places the service recipient's physical safety, environment, relationships, or community participation at serious risk; and

(B) contains one or more procedures in (i) through (iv).

(i) Physical guidance to overcome resistance.

(ii) Physical guidance to move to safety.

(iii) Physical hold to restrict movement.

(iv) Intensified staffing to ensure safety.

(4) The approved behavior support course is identified in the Plan and must be completed before working alone or with other untrained staff, but no later than 60 days after starting work with the service recipient.

(5) Staff must complete the approved physical management course before using any technique of physical management identified in a protective intervention plan. If an approved protective intervention plan includes physical management procedures, the chief executive officer or designee of each provider agency verifies conditions per OAC 340:100-3-38.5(g) are met before securing training on the procedures.

(A) All staff to be trained must complete foundation training with the approved effective teaching course and behavior support course.

(B) Staff working with the service recipient implements the positive components of the plan, as well as non-intrusive procedures to assist the service recipient during a crisis.

(C) The protective intervention plan must be reviewed by the provider agency Human Rights Committee and approved by the Statewide Behavior Review Committee.

(D) Training in physical management procedures occurs only within the requirements per OAC 340:100-3-38.5(g).

(E) Only staff and staff supervisors who provide support to the service recipient are trained on use of a physical management procedure.

(F) Staff formally trained to use physical management procedures do not use those techniques with other service recipients, except in emergencies per OAC 340:100-5-57.

(G) Training curricula regarding behavior support are approved by the DDSD director of human resource development and DDSD director of psychological and behavioral supports.

(6) If the DDSD director of psychological and behavioral supports or positive support field specialist grants emergency authorization per OAC 340:100-5-57 of a protective intervention plan that includes physical management procedures, training is provided only to staff who complete or enroll in the courses per OAC 340:100-3-38.5(g).

(7) Training regarding physical management procedures must be obtained from certified DDSD trainers.

(8) Staff must complete an annual retraining on the specific procedures in the protective intervention plan.

(h) **Ongoing training.** All direct support staff employed by contract agencies who provide services funded through an IHSW complete 12 hours of annual training. Annual training may come from:

(1) required re-certification classes in first aid, CPR, and medication administration training;

(2) courses per OAC 340:100-3-38(b)(1);

(3) courses, conferences, or workshops approved by the DDSD director of human resource development;

(4) individual-specific training; or

(5) agency-specific in-services.

(i) **Certification of competency.** If the service recipient, if applicable, legal guardian, or parent(s) of a minor service recipient ~~believes~~ determines the person chosen to provide services has demonstrated competency in providing care to the service recipient, the service recipient, legal guardian, or parent(s) may exempt the person from training requirements, per OAC 340:100-3-38.5, by signing Form 06IS037E, In-Home Supports Waiver - Certificate of Competency.

(1) The exemption from training is intended to allow services to be provided by a friend, neighbor, family member, or other person who has ~~experience in caring for~~ been trained and deemed competent by the service recipient, or if applicable, legal guardian or parent(s) of a minor service recipient.

(A) No person may coerce or in any way influence a service recipient, legal guardian, or family member to sign Form 06IS037E.

(B) Violation of this prohibition may result in sanctions per OAC 340:100-3-27.

(2) If a service recipient, if applicable, legal guardian, or parent(s) of a minor service recipient chooses to exempt staff from training, neither Oklahoma Department of Human Services (OKDHS) nor the employing contract agency is liable in the event of harm, attributable to lack of training, to the service recipient while in the care of contract agency staff.

(3) If an adult service recipient without a legal guardian chooses to exempt staff from training, training requirements are not waived without written concurrence, on Form 06IS038E, In-Home Supports Waiver - Family Member's Statement, from a parent(s) or family member closest to the service recipient.

(4) The provider agency employing the staff may require training not included in the exemption.

(5) All staff, regardless of signed Form 06IS037E, must successfully complete:

(A) certification in first aid and CPR before working alone or with untrained staff, but no later than 90 days after starting work with the service recipient;

(B) an approved medication administration course per OAC 340:100-3-38.10; and

(C) individual-specific in-service training per OAC 340:100-3-38.5(e).

(6) Form 06IS037E:

(A) is valid for no longer than one year; and

(B) may be withdrawn at any time by the service recipient, if applicable, legal guardian, or parent(s) of a minor service recipient by writing to the DDSD case manager and provider agency.

(7) OKDHS may withdraw the exemption from training at any time.

(j) **Exceptions.** Exceptions to training requirements per OAC 340:100-3-38.5 may be made by the DDSD director or designee.

340:100-3-38.12. Training requirements for direct support staff providing respite, homemaker, or homemaker respite services

(a) **Applicability.** OAC 340:100-3-38.12 sets forth training requirements for direct support staff or provider agency volunteers and direct supervisors providing only respite, homemaker, or homemaker respite services through the Community Waiver, an In-Home Supports Waiver (IHSW), or Homeward Bound Waiver in the family's or service recipient's home or in any community setting as specified per the service recipient's Individual Plan.

(1) If Form 06IS037E, In-Home Supports Waiver - Certificate of Competency, is in place for IHSW participants per OAC 340:100-3-38.5, staff does not have to meet the requirements of OAC 340:100-3-38.12.

(2) Direct support staff providing services beyond respite, homemaker, or homemaker respite services completes training appropriate to staff jobs per OAC 340:100-3-38.

(b) **New employee training.** No later than 30 days following the date of hire, staff providing direct supports or supervising at any level the delivery of direct supports must complete the first available Developmental Disabilities Services Division (DDSD) approved foundation training course and effective teaching course. The first available class is the first unfilled class held within 60 miles of the staff's work location following the staff's date of hire.

(c) **First aid and cardio-pulmonary resuscitation (CPR).** All direct support staff must be currently certified in an approved course of first aid and CPR before providing services alone or with other untrained staff.

(1) First aid and CPR certification of each staff must occur within 90 days following employment.

(2) The service recipient's Personal Support Team (Team) may determine, based on the service recipient's needs, staff must receive first aid and CPR certification in less than 90 days.

(d) **Medication administration training.** Staff must be certified in an approved medication administration course, per OAC 340:100-3-38.10, before administering medication to a service recipient or assisting with a service recipient's medication support plan.

(e) **Individual-specific in-service training.** Individual-specific in-service training is identified for direct support staff in the service recipient's Individual Plan (Plan) based on the physical status review (PSR), if applicable, per OAC 340:100-5-26, and other assessment information for implementation and consistency of supports and programs and to ensure the service recipient's health and welfare.

(1) A service recipient's Team specifies required time frames for completion of individual-specific in-service training. If time frames are not identified in the Plan, required individual-specific in-service training must be completed before working with the service recipient.

(2) As the service recipient's needs require changes in supports or programs, the Team documents in the Plan, or in addenda to the Plan, any new or additional in-service training required, with time frames for completion.

(3) Individual-specific training is provided by the appropriate Team member.

(4) The responsible Team member verifies staff has knowledge and skills necessary to provide the identified services.

(f) **Ongoing training.** All direct support staff employed by provider agencies complete eight hours of approved annual training. Annual training may come from:

(1) required re-certification classes in first aid, CPR, and medication administration training;

(2) courses per OAC 340:100-3-38(b)(1);

(3) courses, conferences, or workshops approved by the DDSD director of human resource development;

(4) individual-specific training; or

(5) agency-specific in-services.

(g) **Exceptions.** Exceptions to training requirements per OAC 340:100-3-38.12 may be made by the DDSD director or designee.

340:100-3-39. Pre-employment screening for community services workers

(a) **Legal basis.** Section 1025.1 et seq. of Title 56 of the Oklahoma Statutes (56 O.S. § 1025.1 et seq.) requires Oklahoma Department of Human Services (OKDHS) to establish and maintain a registry listing the names of community services workers against whom a final investigative finding of ~~abuse, neglect, or exploitation, per 43A O.S. § 10-103,~~ maltreatment involving a service recipient, has been made by OKDHS or an administrative law judge. Providers of community services ~~to service recipients~~:

(1) are required to conduct a search of criminal history records and OKDHS Community Services Worker Registry (Registry) prior to permanent employment of any community services worker; and

(2) must not hire, contract with, or use as a volunteer, a person whose name is listed in the Registry or who has a criminal background described in OAC 340:100-3-39(d)(1)(G).

(b) **Applicability.** The requirements set forth in OAC 340:100-3-39 apply to all community services providers who contract with, or are licensed or funded by OKDHS or who contract with Oklahoma Health Care Authority (OHCA) to provide residential or employment services to service recipients through Developmental Disabilities Services Division (DDSD) Home and Community-Based Services (HCBS) Waivers.

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

(1) **"Community services provider"** means a community-based program, corporation, or person who contracts with, or is licensed or funded by OKDHS or who contracts with OHCA to provide residential or employment services to a service recipient through DDSD HCBS Waivers.

(2) **"Community services worker"** means any person who ~~is~~:

(A) contracts with the OHCA to provide specialized foster care, habilitation training specialist services, or homemaker services to persons with developmental disabilities; or

(~~A~~B) is not a licensed health professional; and

(~~B~~C) employed by or under contract with a community services provider to provide for compensation or as a volunteer:

(i) health-related services;

(ii) training; or

(iii) supportive assistance.

(3) **"Good cause"** means failure of a community services worker to make a timely response for reconsideration of a confirmed finding of ~~abuse, neglect, or exploitation~~ maltreatment due to:

(A) a death within the community services worker's immediate family;

(B) hospitalization of the community services worker; or

(C) an equally meritorious reason, determined within the sound discretion of the administrative law judge or other OKDHS staff authorized per OAC 340:100-3-39 to determine such cause.

(4) **"Health related services"** means assistance provided to a service recipient that includes, but is not limited to:

(A) personal hygiene;

(B) transferring;

(C) range of motion;

(D) supervision or assistance in activities of daily living; or

(E) basic nursing care, such as:

(i) taking temperature, pulse, or respiration;

(ii) positioning;

(iii) incontinent care; or

(iv) identification of signs and symptoms of disease~~.~~; and

(F) certain tasks that may be performed as basic nursing care by community services workers and require appropriate training provided or approved by OKDHS, written agreement by the service recipient's personal support team, and the primary care physician's acknowledgement and specific order related to the task. Under such circumstances, basic nursing care may include, but need not be limited to:

(i) nutrition, including meals by gastrostomy tube or jejeunostomy tube;

(ii) blood glucose monitoring;

(iii) ostomy bag care;

(iv) oral suctioning; and

(v) administration of oral metered dose inhalers and nebulizers.

(5) **"Supportive assistance"** means the service rendered that is sufficient to enable the service recipient to meet an adequate level of daily living including, but not limited to:

(A) training;

(B) supervision;

(C) assistance in housekeeping;

(D) assistance in meal preparation; and

(E) assistance in personal care and activities of daily living ~~skills~~ necessary for the health and comfort of the service recipient.

(6) **"Maltreatment"** means abuse, verbal abuse, sexual abuse, neglect, financial neglect, exploitation, or sexual exploitation of vulnerable adults as defined in Section 10-103 of Title 43A of the Oklahoma Statutes; or abuse, neglect, sexual abuse, or sexual exploitation of children as defined in Section 7102 of Title 10 of the Oklahoma Statutes.

(7) **"Specialized foster care"** means the home and community-based service as defined in the 1915(c) waiver approved by the Centers for Medicare and Medicaid Services.

(8) **"Habilitation training specialist services"** means the home and community-based service as defined in the 1915(c) waiver approved by the Centers for Medicare and Medicaid Services.

(9) **"Homemaker services"** means the home and community-based service as defined in the 1915(c) waiver approved by the Centers for Medicare and Medicaid Services.

(d) **Duties of OKDHS.** When the OHCA contracts directly with a specialized foster care provider, habilitation training specialist services provider, or a homemaker services provider to provide services through the DDSD HCBS waivers, OKDHS follows the screening procedures required for community services providers.

(~~d~~e) **Duties of community services providers.**

(1) **Provider pre-employment responsibilities.** Each community services provider conducts a search of criminal history records and the Registry for each potential employee who is not a licensed health professional and who will provide, for compensation or as a volunteer, on a full-time or part-time basis, health-related services, training, or supportive assistance to a service recipient. This requirement also applies to applicants for supervisory, management, or administrative positions, when the applicant is to provide, on a full-time or part-time basis, supportive assistance, health-related services, or training to a service recipient. The provider:

(A) uses Form 06PE039E, Employment Application Supplement, to formally advise each applicant of the:

(i) required search of criminal history records and the Registry;

(ii) potential consequences of background checks, including the provider's prohibition from hiring any person whose name appears in the Registry or who has a prohibited criminal conviction, per OAC 340:100-3-39(e);

(iii) requirement that the community services worker's employment must be terminated if his or her name appears in the Registry, even though the applicant's name may not have appeared in the Registry at the time of application or hiring;

(iv) requirement to report all current and previous employers who provide services to children or to vulnerable adults ~~who are vulnerable~~; and

(v) fact that giving false information regarding current and previous employers results in termination of employment.

(B) contacts all previous employers engaged in delivery of services to children or vulnerable adults ~~who are vulnerable~~, defined in 43A O.S. § 10-103, requesting information on investigations ~~allegations~~

or findings of ~~abuse, neglect, or exploitation~~ maltreatment;

(C) when contacted by a potential employer, gives accurate information regarding ~~allegations~~ investigations of ~~abuse, neglect, or exploitation~~ maltreatment that were reported to Adult Protective Services (APS), ~~or~~ Office of Client Advocacy (OCA), or Child Protective Services (CPS) and are pending or confirmed;

(D) requests a criminal history records search from Oklahoma State Bureau of Investigation (OSBI) prior to employment of, or offer of employment to, any applicant, except as provided in OAC 340:100-3-39(d)(1).

(i) The provider must secure the criminal history records search and cannot accept documents provided by the applicant.

(ii) If the provider uses a contractor to secure the criminal history records search, the contractor attaches the document received from OSBI to any report given to the provider;

(E) investigates discrepancies in the criminal record information received from OSBI.

(i) If discrepancies exist between criminal history information and information reported by the applicant, such as convictions not reported by the applicant, the provider secures from the applicant a written explanation of the discrepancy that is then sent to OKDHS if the provider is requesting a waiver per OAC 340:100-3-39(e).

(ii) If OSBI information reports inconclusive data, such as reporting the case was referred to another law enforcement agency, the provider secures documentary evidence of the outcome;

(F) may choose to make an offer of temporary employment to an applicant, pending the results of the OSBI criminal history records search.

(i) The provider submits a request for a criminal history records search to OSBI within 72 hours of the applicant's acceptance of any offer of temporary employment.

(ii) Temporary employment of any applicant does not extend longer than the time necessary to receive the results of the criminal history records search and registry review, not to exceed 30 calendar days; and

(G) when the OSBI search reveals that the applicant has been convicted, pled guilty, or pled nolo contendere to misdemeanor assault and battery or a felony, the provider does not hire or contract with the person and immediately cancels any temporary employment arrangement. If a waiver is requested per OAC 340:100-3-39(e), the community services worker is relieved of responsibilities working directly with service recipients until the provider receives a written decision by OKDHS.

(2) **Provider duties during an investigation.** Upon receiving notification of an investigation of an allegation of ~~abuse, neglect, or exploitation~~ maltreatment involving an employee, the provider chief executive officer or designee:

(A) ensures protection and the health and safety for any and all persons receiving services from the provider;

(B) notifies the community services worker, in a face-to-face conference, of the upcoming investigation; and

(C) explains the rights of the community services worker, using Form 06PE059E, Rights and Responsibilities of Community Services Worker in an ~~Investigation~~ investigation of ~~Abuse, Neglect, or Exploitation~~ maltreatment, before the community services worker is interviewed by the investigator, including:

(i) that notice of the outcome of the investigation is mailed to the community services worker's address given on Form 06PE059E; and

(ii) the community services worker's right to request due process in accordance with procedures given in the notice mailed.

(3) **Provider responsibilities regarding due process procedures.** If an employee of a provider is called as a witness in a hearing, the provider:

(A) directs the employee to attend the hearing to give testimony;

(B) accommodates work schedules; and

(C) when written records are required, submits the required records or certified copies. Failure to comply with these responsibilities may result in sanctions per OAC 340:100-3-27.

(~~e~~f) **Waiver of requirement not to hire based on criminal history records search.** If the criminal history records search reveals a criminal background the provider believes will not place a service recipient at risk of harm and will not affect the quality of services provided by the applicant, the provider may request a waiver from OKDHS.

(1) The provider sends a written request for a waiver to the DDSD director. The request includes:

(A) the applicant's:

(i) full name;

(ii) Social Security number; and

(iii) date of birth;

(B) a legible copy of the criminal history records search; and

(C) an explanation of all factors or circumstances the provider believes must be considered.

(2) A waiver is not granted, under any circumstance, for employment of an applicant who has been convicted of, pled guilty, or pled nolo contendere to:

(A) a felony count of:

(i) aggravated assault and battery;

(ii) homicide;

(iii) murder;

(iv) attempted murder;

(v) rape;

(vi) incest; or

(vii) sodomy; or

(B) abuse, neglect, or exploitation of any person entrusted to the applicant's care.

(3) No waiver is granted for offenses resulting in a conviction, plea of guilty, or plea of nolo contendere to a felony that occurred less than five calendar years from the date of the request.

(4) Factors considered in the OKDHS decision to grant or deny a waiver include:

(A) other convictions of the person;

(B) responsibility evidenced by the person since conviction;

(C) time lapse since the person's conviction;

(D) person's age upon conviction;

(E) nature and underlying circumstances of the person's offense;

(F) evidence of efforts made by the person toward rehabilitation, including job training or educational programs in which the person participated;

(G) person's prior employment record; and

(H) nature and location of the position the person seeks.

(5) OKDHS:

(A) may grant a waiver for applicants who will provide services through DDSD HCBS Waivers only upon concurrence by OHCA; and

(B) assumes no responsibility for the actions of a person employed by a provider subsequent to a waiver. The provider indemnifies and holds OKDHS harmless for any damages or attorney fees resulting from a claim that an employee of the provider subsequently abused, neglected, exploited, or otherwise injured a service recipient.

(~~f~~g) **Rights of community services worker.** During investigation of an allegation of ~~abuse, neglect, or exploitation~~ maltreatment, any community services worker who is accused of ~~abuse, neglect, or exploitation~~ maltreatment is entitled to:

(1) be advised of the nature of any allegation against such worker;

(2) be interviewed by the investigator and allowed to give his or her position in relation to the allegation;

(3) be advised of the substance of the evidence against him or her prior to making a statement to the investigator. The identity of persons reporting alleged ~~abuse, neglect, or exploitation~~ maltreatment is not released during the investigation;

(4) refuse, without penalty, to take a polygraph examination;

(5) submit or supplement a written statement relating to the allegation;

(6) seek and receive advice concerning his or her rights and responsibilities in the investigation and review process; and

(7) receive notice from OKDHS of the outcome of the investigation. The community services worker:

(A) provides a correct address to receive notice; and

(B) is responsible to notify CPS, APS, or OCA, as applicable, of any address change.

(~~g~~h) **Responsibilities of community services worker.** Any community services worker who is involved, either as a witness or an accused caretaker, in the investigation of alleged ~~abuse, neglect, or exploitation~~ maltreatment has the responsibility to:

(1) prepare a written incident report;

(2) be available for scheduled interviews;

(3) respond fully and truthfully to the investigator's questions. A community services worker who believes that his or her answers to official inquiries concerning alleged ~~abuse, neglect, or exploitation~~ maltreatment may incriminate the worker in a criminal prosecution may discontinue the interview for that reason;

(4) refrain from any action that may interfere with the investigation, including any action that may intimidate, threaten, or harass any person who has or may provide information relating to alleged ~~abuse, neglect, or exploitation~~ maltreatment; and

(5) appear at any hearing as requested by OKDHS per OAC 340:100-3-39(h)(6).

(~~h~~i) **Procedures for notice and due process.**

(1) **Determination not to place in Registry.** At any time during the notice and due process, OKDHS may determine the placement of a community services worker's name in the Registry is not warranted, despite a confirmed finding of ~~abuse, neglect, or exploitation~~ maltreatment by APS, CPS, or OCA, as applicable.

(A) OKDHS may determine that the community services worker's name will not be placed in the Registry when the wrongful conduct:

(i) does not warrant placement in the Registry using the clear and convincing evidence standard applicable at the administrative hearing;

(ii) did not result in, or create a substantial risk of, serious physical or emotional injury to a service recipient; or

(iii) is not the result of intentional, willful, or reckless disregard for the health or safety of a service recipient.

(B) When a determination is made that a community services worker's name is not to be placed in the Registry, OKDHS sends a notice to the community services worker informing the worker that his or her name will not be placed in the Registry. A copy of the notice is sent to the community services provider who employed the community services worker at the time of the incident that resulted in the confirmed finding.

(2) **Notification of DDSD.** OKDHS divisions responsible for investigating allegations of ~~abuse, neglect, or exploitation~~ maltreatment, per OAC 340:2-3, ~~and~~ OAC 340:5, or OAC 340:75-3, send reports of investigations to the DDSD director or designee.

(3) **Notification to provider.** The OKDHS division responsible for the investigation notifies the provider, or appropriate OKDHS representative, when the investigative report reveals systemic administrative issues regarding:

(A) protection or safety of the service recipient; or
(B) provider agency shortcomings.

(4) **Notification to community services worker.** OKDHS sends written notice of the results of the investigation to the community services worker alleged to have committed ~~abuse, neglect, or exploitation~~ maltreatment. The name of the community services worker who has a confirmed finding of ~~abuse, neglect, or exploitation~~ maltreatment is added to the Registry when OKDHS has sent proper notice to the last known address of the community services worker, and the notice was returned as unclaimed or undeliverable. The notice:

(A) is sent within three working days of receipt by OCA of the OKDHS determination to proceed with the Registry process. If the allegation is ruled out, the provider is also notified;

(B) is sent by certified mail, return receipt requested, if the investigation resulted in a finding of ~~abuse, neglect, or exploitation~~ maltreatment;

(C) contains a summary of the evidence supporting the finding of ~~abuse, neglect, or exploitation~~ maltreatment without identifying the complainant;

(D) specifies that, if the community services worker desires to contest the finding, he or she submits a detailed written statement with a request that OKDHS issue a reconsideration decision reversing the finding;

(E) advises the community services worker that a reconsideration decision must be requested in writing, postmarked within ten calendar days of receipt of the notice; and

(F) notifies the community services worker that failure, absent good cause, to request a reconsideration decision within ten calendar days, as evidenced by the date of his or her signature on the U.S. Postal Service return receipt card:

(i) results in the finding becoming final;

(ii) waives the right to further administrative or judicial review; and

(iii) authorizes:

(I) entry of the community services worker's name in the Registry; and

(II) disclosure per OAC 340:100-3-39(I) to any person requesting such information per OAC 340:100-3-39(j).

(5) **Reconsideration decision.** If the community services worker submits a timely request for a reconsideration decision, or if OKDHS determines good cause for untimely filing, OKDHS issues a reconsideration decision.

(A) The reconsideration decision:

(i) affirms the investigative report;

(ii) modifies the investigative report;

(iii) reverses the investigative report; or

(iv) remands the investigative report for further investigation; and

(v) is issued within ten working days of receipt of the request or, if applicable, the date of any determination of good cause.

(I) If the decision is to remand for further investigation, the investigation is completed within 15 working days of the decision to remand.

(II) Upon completion of the supplemental investigation, OKDHS notifies the community services worker within three working days;

(vi) states the basis for the determination including, but not limited to, any investigative report, OKDHS records, or provider records deemed relevant;

(vii) specifically evaluates and comments upon the contents of the community services worker's written request; and

(viii) is mailed to the community services worker by certified mail return receipt requested, postage prepaid.

(B) When the reconsideration decision affirms or modifies the investigative report, OKDHS:

(i) if the community services worker is aggrieved by the decision, notifies the community services worker that he or she may request an administrative hearing;

(ii) states a written request for hearing must be submitted by the community services worker to OKDHS at a specified address and postmarked within ten calendar days of receipt of the reconsideration decision, unless good cause is established. Receipt is deemed to occur on the date the community services worker signs the U.S. Postal Service return receipt card; and

(iii) states failure to timely request a hearing, absent a finding of good cause by an administrative law judge:

(I) results in the reconsideration decision becoming final;

(II) waives any right to either an administrative hearing or judicial review; and

(III) authorizes entry of the community services worker's name in the Registry, and disclosure to any person requesting the information per OAC 340:100-3-39(j).

(6) **Notice of hearing.** When the community services worker submits a timely written request for hearing, or upon the administrative law judge finding of good cause for a request that was not timely, OKDHS sends a notice of hearing by certified mail, return receipt requested, postage prepaid within ten working days of receipt of the request. The notice is dated and states:

(A) name of administrative law judge;

(B) time and date of hearing, that must be held no earlier than 15 calendar days and no later than 60 calendar days after the date of mailing of the notice;

(C) street and city address, and room number where the hearing will be held;

(D) failure of the community services worker to attend the hearing, absent a finding of good cause by an administrative law judge:

(i) results in the reconsideration decision becoming final;

(ii) waives any right to either an administrative hearing or judicial appeal; and

(iii) authorizes entry of the community services worker's name in the Registry, and disclosure to any person requesting the information per OAC 340:100-3-39(j);

(E) the community services worker may be represented by an attorney;

(F) requests by the community services worker or his or her attorney for witnesses, records, or both, relevant to the proceeding must be directed to OKDHS. OKDHS sends requests to the relevant provider, per OAC 340:100-3-39(d)(3), persons, and appropriate OKDHS divisions;

(G) a final proposed list of witnesses and summary of anticipated testimony must be submitted to the administrative law judge designated on the notice of hearing at least ten calendar days prior to any hearing;

(H) any final decision on the specific persons allowed to testify, the scope of direct testimony and cross-examination, and admissibility of exhibits will be within the sound discretion of the administrative law judge, except all OKDHS and provider records pertaining to a finding of confirmed ~~abuse, neglect, or exploitation~~ maltreatment are admissible;

(I) the community services worker or his or her attorney is allowed to cross examine witnesses called by the OKDHS attorney, who is allowed to cross examine any witnesses called by the community services worker or his or her attorney; and

(J) although the formal rules of evidence and procedure under Oklahoma law are not controlling, the burden of persuasion and initially coming forward with evidence is on OKDHS through its attorney, and the standard of proof is clear and convincing evidence.

(7) **Hearing.**

(A) The hearing is:

(i) closed and all information presented therein is confidential; and

(ii) tape recorded.

(B) The administrative law judge affirms, modifies, or reverses the reconsideration decision, or determines the name of the community services worker, who has been confirmed as having engaged in ~~neglect~~ maltreatment, must not be added to the Registry when the act or omission that is the basis for the confirmed finding:

(i) did not result in, or create a substantial risk of, serious physical or emotional injury to a service recipient; or

(ii) was not the result of intentional, willful, or reckless disregard for the health or safety of a service recipient.

(C) A written decision by the administrative law judge affirming, modifying, or reversing the reconsideration decision, or determining, per OAC 340:100-3-39(h)(7)(B), the community services worker's name is not to be placed in the Registry:

(i) is issued within 30 calendar days of the hearing;

(ii) is mailed to the community services worker by certified mail, return receipt requested, no later than the first working day following the date the decision is signed by the administrative law judge;

(iii) contains findings of fact and conclusions of law;

(iv) notifies the community services worker that, if he or she is aggrieved by the decision, a judicial appeal, solely on the administrative record, may be initiated by filing a petition in the Oklahoma district court with jurisdiction within 30 calendar days from the date the decision is signed by the administrative law judge, pursuant to 56 O.S. § 1025.3 and 75 O.S. § 318; and

(v) states a copy of any petition and summons filed in district court must be served on OKDHS Legal Division.

(~~i~~j) **Disclosure requirements for Registry.**

(1) The Registry information includes, but is not limited to:

(A) community services worker's:

(i) full name;

(ii) Social Security number; and

(iii) date of birth;

(B) date the community services worker's name was placed in the Registry; and

(C) information on the final investigative finding or administrative law judge finding regarding the community services worker.

(2) The information disclosed includes only whether the person is listed in the Registry. No other information related to the allegation, investigation, or evidence is disclosed.

(3) The provider requesting Registry information on an applicant or employing a community services worker alleged to have committed ~~abuse, neglect, or exploitation~~ maltreatment is notified when the community services worker's or applicant's name is entered in the Registry. If more than one community services worker is named as an accused caretaker, a separate letter is sent to the provider for each community services worker.

(~~j~~k) **Public access to Registry.** Access to the Registry is available to the public through the OKDHS Web site~~,~~: www.okdhs.org.

SUBCHAPTER 5. CLIENT SERVICES

PART 3. SERVICE PROVISIONS

340:100-5-17. Habilitation services - professional and paraprofessional [REVOKED]

~~DDSD contracts for the provision of Habilitation services directed toward the maintenance or enhancement of skills, and defined within behavioral goals and objectives within the Individualized Habilitation Plan (IHP).~~

~~(1) Habilitation services are recommended by the individual's interdisciplinary team (IDT) and are directed toward the development or maintenance of a skill in order to achieve a specifically stated need.~~

~~(2) Authorized habilitation services include: Physical Therapy, Occupational Therapy, Speech Therapy, Psychiatric Services, Psychological Services, Audiological Examination and Treatment, Habilitation Training, and other services authorized by the Administrator of DDSD, the Director of DHS, amendments to HCBS Waiver or as authorized through provider certification as an ICF/MR.~~

~~(3) Habilitation goals, objectives, and service plans are written and designed on an individualized basis by professionals within the IDT in accordance with specific areas of competence, are approved by the IDT, and monitored by a designated professional within the IDT.~~

~~(4) Para-professional habilitation service providers receive in service training for the particular training or activity program they are expected to implement.~~

~~(5) Habilitation services for which another public/private program (i.e., local school system) are responsible are not contracted by DDSD.~~

~~(6) Habilitation service providers must report all cases of suspected abuse, neglect or exploitation in accordance with Title 21, Section 845 and 846 of Oklahoma Law for Children and Adult Protective Services Act [Title 43A, O.S. 1984 Supp., Section 10-110].~~

~~(7) Habilitation service providers must adhere to rules of confidentiality.~~

~~(8) Habilitation service providers must possess professional liability insurance in the minimum amount of $50,000. A surety bond executed in the minimum amount of $5,000 is required if the habilitation service provider is implementing a money management program with the client. Verification of insurance and bonding where required must be presented to the Developmental Disabilities Services Division in order for the provider to be certified to the Medical Services Division as qualifying for a Title XIX provider contract.~~

~~(9) Habilitation service providers must comply with the training requirements specified in OAC 340:100-3-3-37, Staff/Provider Training. Verification of compliance must be presented in order for the provider to be certified to the Medical Services Division as qualifying for a Title XIX provider contract.~~

340:100-5-21. Family training and counseling [REVOKED]

~~DDSD provides family training and counseling services to families of individuals who have developmental disabilities upon request and based upon the availability of resources.~~

~~(1) Specific family training/counseling/support needs are addressed in each individual's IHP.~~

~~(2) Family training and counseling services may be provided by DDSD staff or by direct purchase via licensed qualified contract providers.~~

~~(3) Family Training and counseling services provide instruction or opportunities for instruction which will enable family members to teach or maintain skills necessary for the individual to achieve the maximum level of independent functioning.~~

~~(4) Family training/counseling services include training in advocacy and self-advocacy.~~

~~(5) Family training/counseling services include assistance for families and individuals in establishing or linking up with existing peer support groups.~~

~~(6) Family training/counseling services include counseling for siblings and/or parents to increase coping and problem resolution skills.~~

~~(7) Individuals and families served evaluate the success of the program.~~

340:100-5-22.1. Community residential supports

(a) **Applicability.** Community residential supports are funded through contracts with Oklahoma Department of Human Services (OKDHS), Oklahoma Health Care Authority (OHCA), or both, and must meet standards per OAC 340:100-5-22.1.

(1) A service recipient is considered receiving community residential supports when the service recipient receives:

(A) daily living supports (DLS), per OAC 317:40-5-150;

(B) Prader-Willi services;

(C) agency companion services (ACS), per Part 1 of OAC 317:40-5; or

(D) specialized foster care (SFC), per Part 5 of OAC 317:40-5.

(2) OAC 340:100-5-22.1 does not apply to:

(A) group home services, per OAC 340:100-6; or

(B) services provided to service recipients who receive assisted living services, per OAC 340:100-5-22.2.

(b) **General information.**

(1) Services for children are provided in family settings unless approved by the Developmental Disabilities Services Division (DDSD) Community Services Unit programs administrator or designee.

(2) In addition to OAC 340:100-5-50 through 340:100-5-58, the DDSD case manager ensures each Personal Support Team (Team) assesses and addresses the service recipient's needs regarding:

(A) safety in the home, including:

(i) storage of toxic chemicals, cleaning supplies, and combustibles; and

(ii) use of ~~an~~ a tempering valve or other anti-scald device or lowered hot water tank temperature to control water temperature;

(B) financial issues in addition to OAC 340:100-3-4, including:

(i) a household budget that provides adequate resources for housing, food, clothing, furnishings, personal supplies, and recreational opportunities; and

(ii) assistance needed by the service recipient in money management;

(C) selection, adaptation, and maintenance of a home;

(D) community inclusion and access to work, recreation, and therapies;

(E) transportation; and

(F) water safety.

(3) Each service recipient is responsible for his or her room and board expenses, including recreational activities, clothing, furnishings, food, and other expenses for services or supports not funded through OKDHS, except as:

(A) provided to members of the Homeward Bound class; or

(B) approved in emergency circumstances per OAC 340:100-3-33 or 340:100-5-3.

(c) **Homes.** Community residential supports are provided in the service recipient's home. The provider agency ensures:

(1) the home and yard are clean, well-maintained, safe, free from hazards, and adapted to the service recipient's needs;

(2) the home has:

(A) utility service and adequate heating, cooling, and plumbing;

(B) safety items in operating condition located in strategic locations in the home, such as:

(i) flashlight;

(ii) smoke detector;

(iii) carbon monoxide detector;

(iv) first aid kit;

(v) fire extinguisher; and

(vi) ~~an~~ a tempering valve or other anti-scald device, when determined by the Team necessary to ensure the service recipient's safety;

(C) phone service that is available and accessible to the service recipient. Emergency numbers are available at each phone, including:

(i) DDSD toll-free number;

(ii) fire, police, ambulance, hospital, and poison control, if not in a 911 area;

(iii) physician name and number; and

(iv) nursing agency number, if applicable;

(D) at least two means of exit;

(E) a bedroom of at least 80 square feet for each service recipient living in the home. If a service recipient shares a bedroom with another, the bedroom must have 120 square feet or more;

(F) adequate enclosed storage space available for personal items;

(G) laundry equipment, if in the home, located in a safe, well ventilated, and clean area, with dryers vented to the outside;

(H) an address that is clearly visible from the street;

(I) a bathroom that:

(i) includes a:

(I) flush toilet;

(II) fixed basin; and

(III) shower or bath tub that meets the service recipient's needs;

(ii) is in proper working order;

(iii) provides privacy;

(iv) is adapted if needed; and

(v) provides hot and cold running water; and

(J) a kitchen and equipment to store, prepare, and serve food in a sanitary manner;

(3) dangerous or deadly weapons are not permitted in the home, except as provided in OAC 317:40-5-40. Provider agency staff is prohibited from assisting any service recipient to obtain or possess dangerous or deadly weapons. Dangerous or deadly weapons include, but are not limited to:

(A) guns, BB guns, air rifles, or other firearms;

(B) crossbows;

(C) paint guns;

(D) arrows;

(E) explosives;

(F) stun guns; and

(G) knives, except cooking and eating utensils; and

(4) illegal substances are not permitted in the home.

(d) **Pre-service requirements.** The DDSD case manager and service recipient, or, if applicable, legal guardian, complete and approve steps in (1) through (3) when community residential supports are initiated, when the service recipient changes provider agencies, and before the service recipient moves to a new home. The documentation of such is maintained in the home record and the case manager record.

(1) Prior to service delivery, the provider completes an emergency housing back-up plan for review and approval by the service recipient's Team per OAC 340:100-5-52.

(A) The back-up plan contains:

(i) service recipient's name;

(ii) description of living arrangement;

(iii) name and phone number for back-up staff;

(iv) back-up housing location;

(v) written agreement by:

(I) service recipient or legal guardian;

(II) direct provider of service, if an ACS or SFC provider;

(III) agency program coordination staff (PCS);

(IV) provider agency administrative representative; and

(V) DDSD case manager;

(vi) dates for provider review of back-up plan, required quarterly and as changes occur; and

(vii) review date by DDSD case manager.

(B) When the location for the back-up plan is a hotel or motel, the provider agency is responsible for including a plan to pay the cost without additional reimbursement from OKDHS.

(C) OKDHS must complete a home profile on a private home prior to the Team's identification of the home in the back-up plan or use of the home to provide back-up services to the service recipient. A home profile is not required if the service recipient stays in the private home of a relative, per OAC 340:100-5-22.1(f)(4)(A).

(D) The ACS or SFC provider is responsible for re-establishing a residence if his or her home becomes uninhabitable.

(2) The provider agency cooperates with the service recipient and Team to establish and maintain a household budget based on the service recipient's earned and unearned income.

(A) Expenses associated with supporting the household are maintained in an auditable fashion sufficient to track the use of money collected from the service recipient by the contract provider.

(B) Upon request, the contract provider furnishes to the service recipient, service recipient's family, and legal guardian:

(i) a record of all funds collected from the service recipient;

(ii) documentation of how the money was used; and

(iii) the amount of remaining money held by the provider.

(C) Upon termination of residential supports from the contract provider, unused funds are returned to the service recipient within ten calendar days of service termination date.

(3) Form 06CB034E, Residential Pre-Service Checklist, is completed, and all requirements of OAC 340:100-5-22.1 are satisfied.

(e) **Service requirements.**

(1) Unless the service recipient demonstrates the ability under varying conditions to independently and appropriately respond to emergency situations, the provider agency assists in conducting fire drills at least quarterly and weather emergency drills two times annually. The dates, times, and outcomes of the drills are available in the home for review.

(2) The provider:

(A) ensures all requested financial information necessary for maintaining the service recipient's financial eligibility is provided to OKDHS in a timely manner;

(B) when serving as payee, ensures the service recipient maintains financial eligibility for benefits and services by notifying appropriate authorities of a change in the service recipient's income;

(C) when a change of payee is necessary, cooperates to ensure the change is made in a timely manner;

(D) establishes a written financial agreement with the service recipient or legal guardian that defines financial responsibilities of the agency and service recipient.

(i) The financial agreement:

(I) accurately reflects the ongoing financial arrangement between the provider and service recipient;

(II) clearly defines who purchases personal items;

(III) is renewed annually and when changes occur; and

(IV) is available to the service recipient, legal guardian, Office of Client Advocacy (OCA) advocate, and DDSD case manager;

(E) as a member of the service recipient's Team, assists in determining safeguards necessary to protect the service recipient's assets;

(F) allows service recipients to select stores for the purchase of food, clothing, and personal items;

(G) implements the service recipient's Individual Plan (Plan);

(H) provides necessary assistance, including staff support for each service recipient's active participation in community life;

(I) assists the service recipient in maintaining an adequate supply of seasonal clothing that fits appropriately, personal grooming materials, and linens. All items are maintained in good condition;

(J) promotes the service recipient's health and welfare, including providing meals that meet the service recipient's nutritional needs;

(K) promotes visitation and contact with each service recipient's natural family, legal guardian, and friends, according to the service recipient's desires;

(L) promotes friendships with neighbors, co-workers, and peers, according to the service recipient's desires;

(M) when the service recipient, legal guardian, or provider wishes to discontinue services, cooperates in securing alternative services and continues to serve the service recipient until the Team confirms all essential services are in place;

(N) while providing services, ensures staff is engaged at all times in purposeful activity that directly or indirectly benefits the service recipient;

(O) ensures the service recipient attends scheduled medical and therapy appointments.

(i) Transportation to the appointment is provided.

(ii) Adequate records, needed materials, and equipment accompany the service recipient to the appointment.

(iii) If the service recipient requires support in describing illness, issues, or concerns to the practitioner, knowledgeable staff accompanies the service recipient;

(P) ensures the service recipient's prescriptions are filled and administered as prescribed, per OAC 340:100-5-32;

(Q) ensures the Plan addresses in a positive manner any issues related to maintaining the home per OAC 340:100-5-22.1(c); ~~and~~

(R) ensures the service recipient has transportation to programs and services.

(i) Transportation is provided to and from:

(I) medical or therapy appointments;

(II) personal shopping;

(III) leisure or recreational activities;

(IV) vocational or employment activities;

(V) religious or cultural activities;

(VI) Team meetings;

(VII) appointments necessary to secure or maintain needed services; and

(VIII) voting.

(ii) All vehicles used to transport the service recipient meet local and state requirements for licensing, inspection, insurance, and capacity.

(iii) A vehicle used to transport a service recipient with physical disabilities is adapted to meet the service recipient's needs.

(iv) Drivers of vehicles have valid and appropriate driver licenses.

(S) ensures that the hot water temperature for the home is set to no more than 120 degrees Fahrenheit. The provider tests the hot water temperature of the home at least annually, after any servicing of the home's water system, and any time the water temperature is believed to have increased above 120 degrees Fahrenheit. The provider will maintain documentation of tests performed, and this documentation will at minimum include the date of the test and the temperature of the home's hot water. The documentation is maintained in the home and available for inspection. The provisions within this paragraph henceforth known as the Julie Teenor Anti-Scald Protocol; and

(T) ensures reasonable precautions are employed for safety with hot food, cooking oils, and other hot liquids.

(f) **Provider agency policies, practices, and procedures.** The provider agency develops and maintains written policies and procedures that are consistent with OKDHS rules and govern all aspects of service provision.

(1) Provider agency policies are made available to each service recipient, service recipient's parent(s), legal guardian, or advocate, provider agency staff, and OKDHS.

(2) Provider agency policies and procedures include, but are not limited to:

(A) service recipient rights protection;

(B) services provided;

(C) admission and discharge criteria;

(D) grievance procedures;

(E) prevention and reporting of abuse, neglect, and exploitation;

(F) confidentiality;

(G) emergency management;

(H) fees paid by service recipient;

(I) health and safety precautions; and

(J) safeguarding service recipient funds.

(3) The provider agency designates one person who, in the absence of the agency administrator, is responsible for the administration of the agency and is empowered to act on behalf of the provider agency.

(4) The provider agency is responsible for recruitment, screening, training, and supervision of staff or volunteers providing direct services, ensuring direct support staff:

(A) is not supervised by a relative or person living in the staff's home. A relative includes wife, husband, children, parents, stepparents, parents-in-law, grandchildren, grandparents, brothers, sisters, stepchildren, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, aunts, uncles, nieces, nephews, first cousins or any such person with whom the employee shares a foster relationship;

(B) who provides back-up services is available and has received training per OAC 340:100-3-38;

(C) is at least 18 years of age;

(D) is present in sufficient numbers to ensure the service recipient's health, and welfare, as authorized by the service recipient's Plan of Care;

(E) is physically able and mentally alert to carry out the duties of the job;

(F) implements and follows the service recipient's Plan; ~~and~~

(G) does not take the service recipient to visit staff's home unless the Team has provided prior written approval; and

(H) must meet requirements of OAC 317:40-5-40 when overnight visits are going to occur.

(5) The provider agency ensures the PCS supervises, guides, and oversees all aspects of programming associated with receipt of community residential supports.

(A) The PCS must:

(i) get to know the service recipient and his or her needs;

(ii) make announced and unannounced visits to the service recipient's home. The PCS makes a minimum of three ~~unannounced~~ monitoring visits per month, based on the needs of the service recipient and the need for supervision of staff. At least two of the visits must be unannounced. Of the unannounced visits:

(I) at least one visit each month must occur on Saturday or Sunday; ~~and~~ or

(II) ~~another visit must occur~~ between 8:00 p.m. and 7:00 a.m. on a weekday;

(iii) provide support and assistance to any service recipient who is experiencing an emotional, behavioral, or medical crisis;

(iv) be accessible to direct service staff 24 hours per day and available to respond, in person if necessary, to an emergency;

(v) supervise direct contact staff to promote achievement of outcomes in the Plan;

(vi) ensure staffing levels meet the requirements of the service recipient's Plan, with staff trained in accordance with OAC 340:100-3-38;

(vii) ensure records are maintained according to DDSD community records per OAC 340:100-3-40;

(viii) ensure basic household requirements are always in place, including:

(I) utilities and phone service;

(II) furniture;

(III) food supplies that meet the service recipient's nutritional needs;

(IV) linens;

(V) personal items;

(VI) adaptive equipment; and

(VII) prescription medications;

(ix) assist the DDSD case manager as requested to prepare for and implement the Plan and its revisions per OAC 340:100-5-50 through 340:100-5-58;

(x) ensure applicable OKDHS and OHCA rules are followed;

(xi) complete necessary training per OAC 340:100-3-38; and

(xii) have a minimum of four years of any combination of college level education or full-time equivalent experience in serving persons with disabilities, unless this requirement is waived in writing by the DDSD director or designee.

(B) Provider agencies ensure the caseload of each PCS numbers no more than 15 service recipients when the PCS serves service recipients receiving community residential supports.

(C) Provider agencies providing community residential supports for less than one year ensure the caseload of each PCS numbers no more than ten service recipients when the PCS serves service recipients receiving community residential supports.

(D) The DDSD director may grant a written exception to the PCS ratios per OAC 340:100-5-22.1 upon written request and adequate justification from the provider.

(E) Provider agencies who fail to meet program coordination requirements per OAC 340:100-5-22.1(f) may be required to provide a reduced PCS ratio in accordance with sanctions per OAC 340:100-3-27.

(6) Staff, who assist a service recipient with bathing or showering, must ensure the water temperature is safe and comfortable for the service recipient. ~~Even~~ The requirements of this paragraph are enforced even when an anti-scald device is used~~,~~. The staff:

(A) tests the water temperature by touch or with a thermometer designed to test hot liquids, before the service recipient enters the water. The water must be determined safe and comfortable for the service recipient, not merely comfortable for the staff;

(B) is trained by his or her employer in the unique needs of each service recipient including tolerance to water temperature and bathing or showering needs; and

(C) does not leave a service recipient who is unable to attend to safety considerations alone in the bath or shower.

340:100-5-26. Health ~~services~~ and wellness

(a) **Purpose.** ~~Service recipients receive equal access to the quality and range of health care services available to all persons. Services are provided according to applicable federal and state laws, Oklahoma Department of Human Services (OKDHS) Developmental Disabilities Services Division (DDSD) rules, and recommendations made by the service recipient's Personal Support Team (Team).~~ Services and supports promote health and well-being.

(b) **Scope and applicability.** OAC 340:100-5-26 applies to service recipients receiving ~~residential services or group home~~ services funded ~~or licensed~~ by Developmental Disabilities Services Division (DDSD) or Home and Community-Based Services (HCBS) Waivers.

~~(1) DDSD health services are secured based on the service recipient's needs and service requests by the service recipient, service recipient's parent(s), spouse, legal guardian, or Team, as specified by the service recipient's Individual Plan (Plan).~~

~~(2) Services outside the scope of programs funded by OKDHS or Oklahoma Health Care Authority (OHCA) are provided contingent upon available resources.~~

(~~3~~1) Oklahoma State Department of Health (OSDH) ~~recommendations~~ guidelines for ~~immunizations, communicable disease testing,~~ universal precautions, and infection control practices are used to prevent the transmission of communicable diseases.

(~~4~~2) DDSD staff and contract providers implement procedures to ~~maintain and improve~~ promote the health and wellness of each service recipient, including procedures related to:

(A) ~~providing~~ accessing emergency medical intervention~~, including initiation of first aid and cardio pulmonary resuscitation (CPR) and accessing emergency service systems~~;

(B) initiating first aid and cardio pulmonary resuscitation (CPR);

(~~B~~C) ~~preventing~~ promoting disease prevention;

(~~C~~D) addressing issues associated with aging; ~~and~~

(~~D~~E) ~~following physician orders.~~ medication administration per OAC 340:100-5-32;

(F) health related services per OAC 340.100-5-26.3;

(G) assisting the service recipient to access medical and dental services when needed; and

(H) identifying and addressing service recipient needs per OAC 340:100-5-50 through 340:100-5-58.

~~(5) When health needs exceed the scope of DDSD services, the service recipient is referred to an appropriate licensed community health care setting.~~

~~(6) DDSD staff and contract providers acknowledge the right of the service recipient, next of kin, legal guardian, or physician to execute:~~

~~(A) an advance directive made in accordance with Section 3101.1 of Title 63 of the Oklahoma Statutes (63 O.S § 3101.1); or~~

~~(B) a Do Not Resuscitate Order (DNR) made in accordance with 63 O.S § 3131.1.~~

~~(c) **Health-related assessments and record keeping requirements.** Each service recipient:~~

~~(1) or, if applicable, legal guardian identifies a primary care physician or provider from available resources. Specialty consultation and services are obtained when needed; and~~

~~(2) receiving residential services has an annual physical examination. The physician's report of the annual physical examination, documentation of medical visits, and reports of all other health related assessments are maintained in the home record.~~

(c) **Service recipient responsibilities.**

(1) The right of a service recipient to refuse service is respected per OAC 340:100-3-11. However the:

(A) Personal Support Team (Team) meets to discuss the service recipient's decision;

(B) service recipient must cooperate with assessments and provide documents necessary to continue eligibility to receive HCBS waiver services;

(C) service recipient must cooperate with the case manager and provider to obtain necessary assessments and physician orders if assistance by a paid HCBS waiver provider is identified in the Individual Plan (Plan); and

(D) except as provided for in OAC 340:100-5-22.5; the service recipient is responsible for health and medical costs including:

(i) over-the-counter medications, and other medications not covered by insurance;

(ii) health insurance co-payments;

(iii) dental treatments and appliances not covered by dental insurance or within the allowable annual limits of the HCBS waiver, if eligible;

(iv) medical treatments not covered by health insurance;

(v) dietary supplements, including but not limited to:

(I) vitamins; and

(II) herbal and dietary treatments;

(vi) treatment supplies not medically necessary for:

(I) nutrition;

(II) incontinence;

(III) respirator or ventilator care;

(IV) decubitis care;

(V) catheterization;

(VI) health conditions;

(VII) infection control; or

(VIII) not within the allowable limits of the HCBS waiver.

(2) The service recipient or his or her family will assume the responsibility for making appointments when residing in his or her own home or family home.

(d) ~~**Physical status review (PSR) requirements.**~~ **Assessment of needs.** The DDSD case manager ensures an individual assessment is completed for each service recipient per OAC 340:100-5-51.

~~(1) The service recipient's primary care physician, nursing, and health care assessments identify the need for health care services.~~

~~(2) The DDSD case manager ensures Form 06HM007E, Physical Status Review, is initially completed for each service recipient.~~

~~(3) The service recipient's health care needs are addressed by the Team, using Form 06HM007E.~~

~~(A) Form 06HM007E is a review tool that objectively identifies a service recipient's functional ability to attend to activities of daily living based on past and present health history and current treatment modalities.~~

~~(B) The PSR assesses the service recipient's needs in the areas of:~~

~~(i) functional abilities;~~

~~(ii) behaviors;~~

~~(iii) physiological needs;~~

~~(iv) safety considerations; and~~

~~(v) frequency of service.~~

~~(C) The interviewer who completes Form 06HM007E is trained to complete the form.~~

~~(D) To complete Form 06HM007E, the interviewer communicates with the service recipient or someone who knows the service recipient's medical history, current trends in overall health and behavior, daily care needs, medical or nursing treatments, the past year's medical incidents, emergency room visits, hospitalizations, and medication regimen.~~

~~(4) Form 06HM007E is completed annually, no more than 60 days prior to the annual Team meeting.~~

~~(5) Immediate action is taken to provide any emergency interventions required in a situation of acute health deterioration.~~

~~(6) When a significant change in the service recipient's function or health treatment occurs that requires additional staff training or health care services, the Team completes a new Form 06HM007E and revises the Plan as necessary.~~

~~(7) The PSR is the Team's mechanism to identify a health care level based on the service recipient's health status.~~

~~(A) A DDSD nurse assesses the responses documented by the interviewer, formulates a raw score, and computes the health care level, based on specific criteria.~~

~~(i) Level I, service recipient ordinarily has no body system compromised. The service recipient is assisted or has the ability to access the health care system.~~

~~(ii) Level II, service recipient ordinarily has a chronic condition, but the health status is stable.~~

~~(iii) Level III, service recipient ordinarily has two or more chronic co-existing conditions with no occurrences within the past year.~~

~~(iv) Level IV, service recipient ordinarily has two or more existing health conditions that require close observation for symptoms and specialized health training.~~

~~(v) Level V, service recipient ordinarily meets all criteria for Level IV and has health needs that require licensed nursing treatment one or more times daily.~~

~~(vi) Level VI, service recipient ordinarily has several existing health issues that are unstable and require treatment by a nurse more frequently than every two hours over a 24 hour period.~~

~~(B) Based on the health care level, the DDSD nurse develops confirms recommendations for staff health training,. The level of nursing supports, and level of nursing nurse monitoring to be delivered., is addressed by the Team.~~

~~(i) Level I, annual PSR is ordinarily the only nursing service needed.~~

~~(ii) Level II, nurse is involved as a consultant to the Team.~~

~~(iii) Level III, nurse is involved as a consultant to the Team, to promote good communication, staff training, and preventive planning.~~

~~(iv) Level IV, nursing services are provided according to the service recipient's needs and ordinarily do not exceed four hours of licensed nursing time in a 24 hour period.~~

~~(v) Level V, nursing services are provided according to the service recipient's needs and do not ordinarily do not exceed eight hours of licensed nursing time in a 24 hour period.~~

~~(vi) Level VI, nursing services are provided according to the service recipient's needs and ordinarily do not exceed 24 hours of licensed nursing time in a day.~~

~~(8) After a health care level is identified, the Team establishes health care service needs and staff health training needs.~~

~~(9) If the Team has questions or requires more information regarding a health care level, the problem resolution process is initiated per OAC 340:100-3-27.~~

~~(A) The area manager or designee reviews all requests and consults with members of the Team to reach consensus on the level of licensed nursing training or service provision required. If consensus is not reached, the Team moves to the step described in (c)(9)(B) of this Section.~~

~~(B) The area manager~~, RN supervisor, and medical director meet to review cases for nursing in excess of 12 hours in a 14 day period, or for need of conflict resolution.

~~(C) If consensus is still not reached, the case manager notifies the service recipient of OKDHS fair hearing procedures. [OAC 340:2-5]~~

(e) **Planning and implementation requirements.**

(1) Health and wellness support and services and the roles of various individuals are specifically noted in the service recipient's IP per OAC 340:100-5-50 through 340:100-5-58.

(2) For a service recipient who receives minimal services to maintain residence in his or her own home, family home, or to maintain employment, the service recipient and his or her Team determines the appropriate roles for members of the Team per applicable policy.

(3) For a service recipient who receives residential, group home or extensive health supports to remain in their own home, family home, or maintain employment, the team will identify specific roles and protocols necessary to provide support as listed in (A) - (H) of this paragraph.

(~~1~~A) The Team identifies desired health care outcomes ~~during~~ through the Team process.

(~~2~~B) Health issues identified through health care evaluations and assessments that impact the service recipient's life are incorporated and integrated by the Team into the Plan through goals and objectives.

(~~3~~C) ~~Plans for health~~ Health care ~~needs~~ services are ~~developed~~ addressed in terms of individual outcomes, not units of clinically specific service.

(~~4~~D) When ~~plans for~~ assessing health care ~~needs~~ services or implementation strategies ~~are developed~~ involving discipline-specific services, a representative from that discipline participates in at least a consulting role.

~~(f) **Team review requirements for invasive or intensive procedures.**~~

(~~1~~E) Any invasive or intensive professional service or procedure is ~~subject to review~~ reviewed by the Team, including participation from any other service provider as appropriate. Consent is assessed per OAC 340:100-3-5.

(~~2~~i) Team review of an invasive or intensive service or procedure includes discussion, prior to implementation, of the proposed service or procedure, and of possible alternatives.

(~~3~~ii) Invasive procedures ~~subject to review~~ reviewed by the Team comprise both scheduled and emergency procedures, ~~including major surgery,~~ that~~:~~ include but are not limited to:

~~(A) produce a significant change in daily function or health;~~

~~(B) require additional staff training or health care services; and~~

~~(C) include, but are not limited to:~~

(~~i~~I) tracheotomy;

(~~ii~~II) orthopedics;

(~~iii~~III) gastrostomy;

(~~iv~~IV) jejunostomy;

(~~v~~V) multiple dental extractions;

(~~vi~~VI) amputation; or

(~~vii~~VII) consideration of permanent sterilization.

(~~4~~iii) An invasive or intensive professional service or procedure implemented on an emergency basis ~~is subject to review~~ must be reviewed by the Team as soon as possible, but within five working days. Emergency procedures subject to review include, but are not limited to emergency:

(~~A~~I) surgery; or

(~~B~~II) behavioral intervention including~~:~~ mechanical or chemical restraints.

~~(i) mechanical restraint; or~~

~~(ii) chemical restraint.~~

~~(g)~~ **~~Health care coordination requirements.~~**

(F) The residential or group home provider has an obligation to assure health coordination activities are implemented.

(~~1~~G) The Team identifies a health care coordinator (HCC) ~~for the service recipient~~ to ensure implementation and coordination of health care services for the service recipient. The HCC:

(~~A~~i) is a person who has an ~~overview~~ understanding of the service recipient's health care needs and lifestyle, and may be the service recipient, service recipient's family member, foster parent, companion, residential provider staff, or other person who is familiar with the service recipient's needs;

(~~B~~ii) ~~is trained by DDSD staff~~ receives DDSD required training;

~~(C) serves as a health care facilitator and follows requirements in OAC 340:100-5-26;~~

(~~D~~iii) documents that health concerns are ~~acted upon~~ addressed, monitored, and communicated ~~and staff are trained~~;

~~(E) accompanies the service recipient to the physician and communicates to the physician the reason the service recipient is seen;~~

(iv) supports the person to directly communicate to the physician the reason for the medical consultation whenever possible, or communicate on the service recipient's behalf;

(~~F~~v) keeps the physician advised of medical status and data regarding any target symptoms;

(~~G~~vi) communicates ~~any~~ physician ~~order~~ orders ~~obtained during such visit~~ to core Team members and other service providers as appropriate; ~~and~~

(~~H~~vii) presents Form 06HM005E, Referral Form for Examination or ~~treatment~~ Treatment, for HCBS Waiver recipients to the physician at the time of the visit.

(~~i~~I) Form 06HM005E is completed by the HCC prior to the visit.

(~~ii~~II) The HCC requests the physician to complete a short written summary of the findings.

(~~2~~viii) ~~If~~ When ~~the HCC is~~ employed by a contract provider, the employer develops and implements a procedure to ensure appropriate backup if the HCC is unable, for any reason, to perform these duties~~.~~ and

(ix) completes health status and medication reviews each month using Form 06HM006E.

(H) For HCBS Waiver service recipients, the DDSD case manager makes a referral for a clinical pharmacy review by a clinical pharmacist or physician:

(i) upon request of a Team member or clinician participating with the Team;

(ii) when a review performed by the assigned DDSD case manager and nurse determines a referral to an independent clinical pharmacist or physician is indicated. The DDSD case manager submits a clinical pharmacy review annually or as needed when the service recipient:

(I) receives five or more medications;

(II) has an unusual physical sign or symptom during the month in review that is not resolved through other medical interventions;

(III) uses a p.r.n. medication routinely for more than three months with an average use of three per week or ten per month;

(IV) takes two or more psychotropic medications per OAC 340:100-5-26.1; or

(V) takes three or more anticonvulsant medications used for a seizure disorder.

(~~h~~f) **Implementation procedures for HCBS waiver skilled nursing services.**

(1) ~~When a service recipient receives physician prescribed~~ Skilled nursing services~~, a written nursing care plan is developed and monitored by the contract nurse~~. are implemented per OAC 317:30-5-390 through 317:30-5-394.

(2) ~~Direct support staff is~~ Community service workers are trained and ~~carries~~ carry out implementation strategies addressing health care outcomes.

(3) ~~Adequate~~ Accurate and current medical and program information is maintained in the home record by the residential provider and available for review by authorized OKDHS staff.

~~(i)~~ **~~Evaluation and monitoring requirements.~~**

~~(1) Health status and Medication medication reviews are completed by the HCC each month utilizing using Form 06HM006E, Health Status and Medication Review.~~

~~(2) The DDSD case manager makes a referral for a pharmacological clinical pharmacy review by an independent non-dispensing/non-prescribing clinical pharmacist or physician:~~

~~(A) upon request of a Team member or clinician participating with the Team;~~

~~(B) when the a review performed by the assigned DDSD case manager and nurse determines a referral to an independent clinical pharmacist or physician is indicated. The DDSD case manager and nurse perform a review submits a request for a clinical pharmacy review annually or as needed when the service recipient:~~

~~(i) receives five or more medications, prescription or non prescription; or~~

~~(ii) has an unusual physical sign or symptom during the month in review that is not resolved through other medical interventions; or~~

~~(C) when the service recipient:~~

~~(iiii) uses a p.r.n. medication routinely for more than three months;:~~

~~(I) three per week; or~~

~~(II) ten per month~~

~~(iiiv) takes two or more psychotropic medications; or~~

~~(iiiv) takes more than two anticonvulsant medications used for a seizure disorder.~~

~~(3) If the service recipient continues to meet criteria per OAC 340:100-5-26(i)(2)(A), (B), or (C), the DDSD case manager and nurse annually, or more frequently if necessary, complete a review of the service recipient's condition. If a pharmacological review is clinically indicated, the case manager requests a pharmacological review in conjunction with the annual Plan.~~

(g) **Case management monitoring responsibilities for HCBS Waiver service recipients.**

(1) The case manager monitors implementation of the plan per OAC 340:100-5-52 and 340:100-3-27.

(~~4~~2) For the purpose of monitoring and evaluation, designated DDSD staff ~~has~~ have access at all times to the service recipient's medical and programmatic information.

(3) The case manager monitors the service recipient's access to medical and dental services.

(4) The case manager may assist the service recipient in locating health care providers.

~~(5) If the service recipient receives DDSD services but has no DDSD case manager, the provider contacts the DDSD area manager or designee for assistance in requesting an a independent pharmacological clinical pharmacy review.~~

PART 5. INDIVIDUAL PLANNING

340:100-5-53. Individual Plan

(a) The Individual Plan (Plan) is a written document that describes the outcomes desired by the service recipient and the services and supports necessary to achieve those outcomes. Each Plan includes:

(1) basic demographic information, including emergency information and health and safety concerns;

(2) assessment information;

(3) description of services and supports identified by the Personal Support Team;

(4) outcomes to be achieved;

(5) action steps or methods to achieve the outcomes, including:

(A) means to assess progress; and

(B) names of persons or agency positions responsible for implementing each part of the Plan;

(6) methods to address safety and health risks and needs, including those identified in Form 06HM007E, Physical Status Review, per OAC 340:100-5-26;

(7) community participation strategies and activities;

(8) identification of needed individual-specific staff training, with required time frames for completion, per OAC 340:100-3-38; and

(9) medication support plan, per OAC 340:100-5-32.

(b) The Plan is updated as required by ongoing assessment of progress and needs.

(c) A copy of the service recipient's Plan is provided to the:

(1) service recipient; and

(2) service recipient's family, legal guardian, and designated advocate.

(d) Relevant portions of the Plan are provided to persons or agencies who provide support or services to the service recipient.

(e) The Developmental Disabilities Services Division case manager develops a Plan of Care that is consistent with the Plan ~~to authorize payment for services~~.

SUBCHAPTER 6. GROUP HOME REGULATIONS

PART 7. ENVIRONMENTAL HEALTH, SAFETY, AND SANITATION REQUIREMENTS

340:100-6-45. Health and safety

(a) The group home provider acts immediately to remedy any situation that poses a risk to the health, well-being, safety, or provision of specified services to any service recipient.

(1) In the event of such a threat, the provider immediately notifies Developmental Disabilities Services Division (DDSD):

(A) of the nature of the situation; and

(B) upon resolution of the threatening situation.

(2) The provider completes and regularly reviews incident and injury reports per OAC 340:100-3-40.

(3) In the event of the death of a service recipient, the provider complies with OAC 340:100-3-35.

(b) An evacuation plan must be developed for each group home. Fire drills must be conducted at least quarterly and severe weather drills must be conducted two times annually.

(c) The group home must have a written plan for temporary living arrangements in case of fire, climatic conditions that warrant evacuation, or other natural disasters that may render the facility unsuitable.

(d) Dangerous or deadly weapons are not permitted in the home. Provider agency staff is prohibited from assisting any service recipient to obtain or possess dangerous or deadly weapons. Dangerous or deadly weapons include, but are not limited to:

(1) guns or other firearms;
(2) crossbows;
(3) paint guns;
(4) arrows;
(5) explosives;
(6) stun guns; and
(7) knives, except cooking and eating utensils.

(e) Illegal substances are not permitted in the group home.

(f) Adequate enclosed storage space in the group home must be provided for items belonging to service recipients.

(g) Laundry equipment must be:

(1) provided in the group home and housed in a safe, well ventilated, and clean area; and
(2) kept clean with the clothes dryer vented to the outside.

(h) All group home doors and windows opening to the outside for ventilation must have screens that are well fitted and in good repair.

(i) Phone service must be available within the group home and accessible to the service recipient in accordance with his or her Individual Plan.

(j) Linen storage areas must be clean and organized.

(k) Any bulk cleaning supplies must be stored in a separate, clean area of the group home.

(l) The address of each group home must be clearly visible from the street.

(m) Items required to be in operating condition and accessible for use in the group home are:

(1) flashlights;
(2) smoke detectors;
(3) first aid kit;
(4) fire extinguisher; and
(5) carbon monoxide detectors.

(n) Medication administration is performed in accordance with OAC 340:100-5-32.

(o) Group home staff who assist a resident with bathing or showering must ensure the water temperature is safe and comfortable before allowing a member to enter water by touch or with a thermometer designed to test hot liquids for the resident being bathed, including when an anti-scald or tempering device is used.

(p) The group home provider ensures that the hot water temperature for the home is set to no more than 120 degrees Fahrenheit. The group home provider tests the hot water temperature of the home at least annually, after any servicing of the home's water system, and any time the water temperature is believed to have increased above 120 degrees Fahrenheit. The group home provider will maintain documentation of tests performed, and this documentation will at minimum include the date of the test and the temperature of the home's hot water. The documentation is maintained in the home and available for inspection. The provisions within this Subsection will henceforth be known as the Julie Teenor Anti-Scald Protocol.

PART 11. PROGRAM STANDARDS

340:100-6-55. Staffing requirements

Group homes must employ sufficient staff who are appropriately qualified and trained to provide the essential services of the home.

(1) **Sufficient staff.** Each group home must have one person who is administratively responsible for the entire program. This person must be in addition to direct support staff.

(A) There must be at least one designated person in charge of the home and its operation available for each home when service recipients are present. Staff support and supervision must be provided as needed for each service recipient in the home.

(B) In addition to direct support staff, each service recipient in a group home must have a staff person who serves as program coordinator. In addition to duties required by OAC 340:100-5-52, program coordination staff must:

(i) get to know the service recipient and the service recipient's needs;

(ii) make announced and unannounced visits to the group home that include a minimum of three ~~unannounced~~ monitoring visits per month, based on the needs of the service recipients and the need for supervision of staff. At least two of the visits must be unannounced. Of the unannounced visits, at least one visit must occur each month:

(I) on Saturday or Sunday; ~~and~~ or
(II) between 8:00 p.m. and 7:00 a.m. on a weekday;

(iii) provide support and assistance to any service recipient who is experiencing an emotional, behavioral, or medical crisis;

(iv) be accessible to direct support staff 24 hours per day and available to respond, in person if necessary, to an emergency;

(v) supervise direct support staff to promote achievement of outcomes in the service recipient's Individual Plan (Plan);

(vi) ensure staffing levels meet the requirements of the service recipient's Plan, with staff trained in accordance with OAC 340:100-3-38;

(vii) ensure each service recipient's needs are always met, including:

(I) utilities and phone service;
(II) furniture;
(III) food supplies that meet the service recipient's nutritional needs;
(IV) linens;
(V) personal items;

(VI) adaptive equipment; and

(VII) prescription medications;

(viii) assist the Developmental Disabilities Services Division (DDSD) case manager as requested to prepare for and implement the service recipient's Plan and its revisions per OAC 340:100-5-50 through 340:100-5-58;

(ix) ensure Oklahoma Department of Human Services and Oklahoma Health Care Authority rules are followed; and

(x) complete necessary training specified in OAC 340:100-3-38.

(C) All group home providers must have a signed, written agreement with a registered nurse to:

(i) act as a consultant;

(ii) review medication issues and administration quarterly, or more often if required; and

(iii) provide technical assistance upon request. Documentation of the use of the nurse consultant must be maintained by the group home provider.

(D) Service recipients do not supervise other service recipients.

(2) **Staff qualifications.**

(A) The group home has an administrator and program coordinator who must:

(i) be at least 21 years old; and

(ii) have a minimum of four years of any combination of college level course work or full-time equivalent experience in serving persons with disabilities, unless this requirement is waived in writing by the DDSD director or designee. Both roles may be filled by the same person.

(B) All other staff must be at least 18 years of age.

(C) The provider agency must comply with OAC 340:100-3-39 regarding pre-employment screening for community services workers.

(3) **Staff training.** To ensure all providers achieve and maintain a level of competency necessary to meet the needs of each service recipient in the group home, provider agency staff must complete training specified in OAC 340:100-3-38.

SUBCHAPTER 17. EMPLOYMENT SERVICES

PART 5. OTHER STATE FUNDED EMPLOYMENT SERVICES

340:100-17-30. Other state funded employment services

State funded employment services may supplement employment services offered through the Community Waiver and Homeward Bound Waiver, per OAC 317:40-7.

(1) State funded employment services include:

(A) therapeutic leave, limited to 150 hours per service recipient each fiscal year.

(i) Each service recipient is eligible for up to 150 hours of therapeutic leave absence per fiscal year if the service recipient receives:

(I) center-based prevocational services;

(II) community-based prevocational services;

(III) enhanced community-based prevocational services;

(IV) individual placement in community-based services; or

(V) supplemental supports.

(ii) Therapeutic leave may be used for:

(I) legal holidays, maximum of 12 days per fiscal year;

(II) service recipient or family initiated vacations;

(III) service recipient medical appointment, concern, illness, or injury;

(IV) severe weather conditions; or

(V) service recipient refusal to attend the employment program.

(iii) When a service recipient is absent for more than five consecutive days due to illness, the service recipient's Team meets to discuss possible:

(I) program interventions; and

(II) suspension of the service recipient's employment program to avoid exhausting all available therapeutic leave.

(iv) When a service recipient refuses to attend his or her employment program for three consecutive days, the Team, including residential staff, meets to discuss possible program changes. The employment provider cannot claim for therapeutic leave beyond the three consecutive days until the Team has met.

(v) Claims for therapeutic leave require supporting documentation that includes the date and length of absence and specific reason for absence.

(vi) The provider can claim for therapeutic leave only for the number of scheduled work hours the service recipient missed.

(vii) The provider cannot claim for therapeutic leave when the:

(I) provider agency is closed for reasons other than severe weather conditions;

(II) provider staff is absent, other than on legal holidays; or

(III) service recipient's absence is caused by the provider's inability to supply trained back-up staff.

(viii) The provider pays the direct support staff member the salary that the staff member would have earned if the:

(I) provider bills for therapeutic leave; and

(II) direct support staff member is unable to work due to the absence of the service recipient.

(B) center-based prevocational services;

(C) individual placement in community-based services;
(D) community-based prevocational services;
(E) enhanced community-based services;
(F) individual placement in job coaching services;
(G) job coaching services;
(H) enhanced job coaching services;
(I) stabilization and extended services; and
(J) employment training specialist services.

(2) State funded employment services are available to~~:~~ members of the Homeward Bound class who are not eligible for DDSD waiver services.

~~(A) members of the Homeward Bound class who are not eligible for DDSD waiver services; and~~

~~(B) service recipients who are transitioning from a public or private intermediate care facility for the mentally retarded (ICF/MR), an intermediate care facility, or a skilled nursing facility. If assessment activities occur prior to community placement, state funds for up to 40 documented hours of employment training services may be claimed or assessment, staff training, or meetings.~~

[OAR Docket #09-513; filed 3-26-09]

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

[OAR Docket #09-494]

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PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
590:1-1-7. Declaratory rulings [REVOKED]
Subchapter 3. Administrative Review and Hearings
590:1-3-1. Purpose and general overview of administrative hearings [AMENDED]
590:1-3-2. Definitions [AMENDED]
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The amendment to rule 590:1-1-7, which is currently in effect as an emergency rule, is to eliminate duplication in the rules and prevent a potential conflict in interpretation and use. On May 11, 2008, a new rule, 590:1-3-18, was adopted by OPERS addressing declaratory rulings. The intent of the new rule was to replace and supersede the existing rule. The existing rule, 590:1-1-7, should have been revoked when the new rule was adopted by the Board. In order to prevent any conflict in the rules and protect the members of OPERS, it is necessary to immediately revoke rule 590:1-1-7. The amendment to 590:1-3-1 and 590:1-3-2 clarifies who may properly bring an individual administrative proceeding before the System.
CONTACT PERSON:
Joseph A. Fox, General Counsel, Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118, 405-858-6737

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 25, 2009:

SUBCHAPTER 1. GENERAL PROVISIONS

590:1-1-7. Declaratory rulings [REVOKED]

~~(a) Petitions for declaratory rulings as to the applicability of any rule or order of the agency shall be in writing and must be filed with the Board at least ten days prior to the next regularly scheduled Board meeting. The petition must state with clarity the issues to be decided and any legal authority which may be applicable.~~

~~(b) The Board shall issue a written Final Ruling within 60 days of hearing the petition. The Final Ruling shall be mailed to the person requesting the ruling and shall be kept on file in the Board office for public inspection.~~

~~(c) Final rulings of the Board are subject to judicial review pursuant to the Administrative Procedures Act, in the same manner as individual proceedings.~~

SUBCHAPTER 3. ADMINISTRATIVE REVIEW AND HEARINGS

590:1-3-1. Purpose and general overview of administrative hearings

(a) **Purpose.** The purpose of this Subchapter is to give the member or ~~beneficiary~~ participating employer, or in the case

of a deceased member a joint annuitant or beneficiary, a reasonable way to have a disagreement or controversy considered fairly. In all cases, the member or ~~beneficiary~~ participating employer, or the joint annuitant or beneficiary of a deceased member, shall have an opportunity to resolve disagreements with the System without a formal hearing.

(b) **Formal hearing.** If a case cannot be resolved informally, the provisions of this Subchapter provide for a formal hearing before a Hearing Examiner, who is not an employee or officer of the System. The Hearing Examiner makes proposed findings, conclusions and recommendations which are reviewed and acted upon by the Board of Trustees.

(c) **Right to appeal.** The member~~, joint annuitant or beneficiary~~ or participating employer, or the joint annuitant or beneficiary of a deceased member, retains the right to seek relief from a final order in an administrative hearing by the Board of Trustees by way of appeal to the District Court of Oklahoma County.

(d) **Governing rules.** The rules set forth in this Subchapter shall govern all contested proceedings before the System or its delegated Hearing Examiner. These rules shall be given the most reasonable meaning, taken in their total context, and will be construed to secure due process in the proper resolution of each controversy.

590:1-3-2. Definitions

For purposes of this Subchapter:

"Claimant" means the member~~, joint annuitant, beneficiary~~ or participating employer, or in the case of a deceased member a joint annuitant or beneficiary, filing an appeal with the System.

"System" means the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma State Employees Deferred Compensation Plan, and the Oklahoma State Employees Deferred Savings Incentive Plan.

[OAR Docket #09-494; filed 3-26-09]

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

[OAR Docket #09-495]

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590:10-3-9. Purchase price payments [AMENDED]
590:10-3-14. Elected official service credit [NEW]
Subchapter 7. Retirement Benefits
590:10-7-13. Filing for retirement and Initial retirement benefit [AMENDED]
590:10-7-18. Post-retirement employment - eligibility [AMENDED]
Subchapter 19. Medicare Gap Benefit Option
590:10-19-3. Medicare Gap Benefit option [AMENDED]

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The amendment to 590:10-3-9 permits the System to accept post-tax rollover contributions for the payment of an actuarial purchase price, repayment of a previous withdrawal, purchase of service credit, or any other purchase allowed by law.

The amendments to 590:10-3-14 and 590:10-7-18 were adopted as emergency rules in 2008 and are now being proposed as permanent rules. These amendments are intended to implement the provisions enacted in Enrolled Senate Bill 1641 and Enrolled House Bill 3112 of 2nd Session of the 51st Oklahoma Legislature.

SB 1641, which became effective on August 22, 2008, amends 74 O.S. § 913.4 by changing the calculation of credited service for certain elected officials who have both elected service credit and non-elected service credit. Newly elected officials will be immediately affected by this legislation. The new rule 590:10-3-14 sets forth the procedure and factors in determining credited service for elected officials first elected after the effective date of the legislation and those individuals who first join the System after the effective date of the legislation. The rule also provides that elected officials in office prior to the effective date of the legislation are not affected by the legislative amendments.

HB 3112, which became effective on July 1, 2008, amends 74 O.S. §914(E)(4) by prohibiting retirees from returning to work for his or her former employer for a period of one (1) year after the retiree's initial retirement. The amendment to rule 590:10-7-18 sets forth the requirements of §914(E)(4) and provides additional guidance.

The amendment to 590:10-7-13 modifies the members who would be considered to have met the 60 day retirement notice requirement. These members would include those who have reached the age requiring mandatory distribution and identified as eligible to receive a retirement benefit.

The amendment to 590:10-19-3 permits the System to receive the election of the Medicare Gap Benefit Option after the effective retirement date for a non-active vested member who has met the 60 day retirement notice requirement. This amendment would give certain members extra time to make the decision to elect the Medicare Gap Benefit Option and give the System time to calculate the benefit.

CONTACT PERSON:
Joseph A. Fox, General Counsel, Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118, 405-858-6737

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 25, 2009:

SUBCHAPTER 3. CREDITED SERVICE

590:10-3-9. Purchase price payments

(a) An active member of the System may elect the payment of the actuarial purchase price, repayment of a previous withdrawal, purchase of previous non-participating elected service, or to purchase an increase in the contribution rate, or any other purchase or repayment permitted and authorized by the statutes governing the System, to be amortized in monthly installments to the extent allowed by law.

(1) A payment schedule may be established allowing the member to make monthly payments through payroll deductions by the member's employer if the employer agrees to make the deductions and remit payments to the System. Payments remitted by an employer for its employees must be kept separate from employer's regular retirement contributions or any other payments to the System including Deferred Compensation. Such payments do not qualify as "pre-tax" contributions under "employer pick-up" provisions of Section 414(h) of the Internal Revenue Code.

(2) The installment payment schedule provided for in this section must be in monthly increments. The minimum total monthly payment is $25.00. The member shall be responsible for maintaining the payment schedule. The payment due date will be based on the payroll schedule set by the member's employer. An installment not paid within sixty (60) days of the due date will result in termination of the installment payment schedule with the member given the option of paying the balance of the actuarial cost or receiving partial credit for payments made under the installment schedule as provided for in subsection (4) of this section.

(3) The monthly payment will be determined by amortizing the total amount due for the service to be purchased over the period of the installment schedule using an interest rate equal to the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings for the year in which the payment schedule is commenced.

(4) Except as provided in subsection (8) of this section, if the installment payment is terminated for any reason, including termination of employment, death of the member or by cessation of payments, the member or the beneficiary of the member will have the option of paying the remaining balance within six (6) months. If the balance is not paid, the member will receive credit for service prorated for only the principal amount paid and rounded to the last full month paid for. No refunds will be paid to the member.

(5) Credit for service purchased on an installment schedule will not be added to the member's account until the entire balance is paid, except as provided for in subsection (4) of this section. All payments must be completed in the month prior to the effective retirement date of the member. If any member or beneficiary elects to pay the balance during the 6 month period provided for in Subsection (4) of this Section, no benefits will be payable until the completion of said 6 month period, or receipt of a signed waiver. In no event will retroactive benefit payments be made, and the effective retirement date will be adjusted to the first day of the month following the completion of payments or receipt of waiver.

(6) Payments may be made directly to the System by the member or beneficiary if the member is in an unpaid leave status, if the payroll is not sufficient to handle the entire payment, in the event of payroll error where employer fails to withhold the proper amount or during the six (6) month period referred to in subsection (4) of this Section.

(7) Except as provided in subsection (8) of this section, if the purchase is terminated for any reason, the purchase cannot be made at anytime in the future~~,~~ following the 6 month option referred to in Subsection (4) of this Section. By failing to complete this purchase, the member or beneficiary forfeits the right to the purchase at any other time.

(8) If the installment payment for the repayment of a previous withdrawal is terminated for any reason, the member, upon returning to employment and meeting the eligibility requirements for membership, may pay the remaining principal balance at any time prior to the month of the effective retirement date. The total due shall be the unpaid principal balance, plus interest pursuant to 74 O.S. § 917(5), calculated from the date of the last installment payment received and paid in a one-time lump sum amount.

(b) Effective January 1, 2002, in lieu of installment payments, an active member may elect to make the payment of the actuarial purchase price, repayment of a previous withdrawal, purchase of previous non-participating elected service, or to purchase an increase in the contribution rate, or any other eligible purchase or repayment permitted and authorized by the statutes governing the System by use of a direct trustee to trustee transfer from a 457 deferred compensation plan or a 403(b) tax sheltered annuity program.

(c) Effective January 1, 2002, in lieu of installment payments or a direct transfer, an active member may elect to make the payment of the actuarial purchase price, repayment of a previous withdrawal, purchase of previous non-participating elected service, or to purchase an increase in the contribution rate, or any other eligible purchase or repayment permitted and authorized by the statutes governing the System by a rollover. The payment may be made by participant rollover contributions and/or direct rollovers of eligible rollover distributions made after December 31, 2001, from the following:

(1) a qualified plan described in section 401(a) or 403(a) of the Internal Revenue Code;
(2) an annuity contract described in section 403(b) of the Internal Revenue Code;
(3) an eligible plan under section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state; or
(4) a participant rollover contribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the Internal Revenue Code that is eligible to be rolled over ~~and would otherwise be includable in gross income~~.

590:10-3-14. Elected official service credit

(a) **First elected service on or after August 22, 2008.** Any member of the System before August 22, 2008, who is first elected or appointed on or after August 22, 2008, and who retires as an elected official with at least six (6) years in elected office, may count all of his or her non-elected service which occurred prior to the elected service, if any, as if it were elected service. The applicable contribution rate selected by the elected official shall apply and the calculation of the benefit shall be made in accordance with the provisions of 74 O.S. §913.4. However, in no event shall the retirement benefits be more than one hundred percent (100%) of his or her highest contiguous twelve (12) months of compensation earned as an elected official or as a non-elected member.

(b) **Joining System on or after August 22, 2008.** Any member who first joins the System on or after August 22, 2008, shall have elected and non-elected service separately calculated as follows:

(1) All non-elected credited service will be calculated at the applicable factor multiplied by the member's final average compensation and multiplied by the non-elected years.

(2) All elected service will be multiplied by the appropriate computation factor corresponding to the contribution rate selected by the member as an elected official. The salary used for the benefit formula for elected service shall be the elected official's single highest annual compensation as an elected official.

(3) The calculations provided for in paragraphs (1) and (2) of this subsection (b) will then be added together to determine the total benefit for such member. Under no circumstances shall the elected official be entitled to apply the contribution rate and the corresponding computation factor selected pursuant to 74 O.S. §913.4(A) or the compensation received as an elected official to the computation of any non-elected service.

(4) Fractional year computations made under this section shall be calculated in accordance with 590:10-7-9.

(c) **Elected service prior to August 22, 2008.** The amendments to 74 O.S. §913.4(C)(3) and (4) in Enrolled Senate Bill 1641 of the 2nd Regular Session of the 51st Legislature (2008), Section 1, Chapter 105, O.S.L. 2008, did not amend or affect the calculation of service credit for any elected official who was a member of this System and who served as an elected official prior to August 22, 2008.

(d) **Effective date.** The authorizing legislation for determining elected official service credit provided by this section is Enrolled Senate Bill 1641 of the 2nd Regular Session of the 51st Legislature (2008), Section 1, Chapter 105, O.S.L. 2008. The emergency clause in SB 1641 failed thereby making the effective date of the legislation ninety (90) days following sine die adjournment, or August 22, 2008. The internal references to July 1, 2008, in 74 O.S. §913.4(C)(3) and (4), shall be interpreted to mean August 22, 2008.

SUBCHAPTER 7. RETIREMENT BENEFITS

590:10-7-13. Filing for retirement and Initial retirement benefit

(a) It is the responsibility of all members to file a notice of retirement form with the System at least sixty (60) days but not more than one hundred eighty (180) days prior to the member's requested effective retirement date. Any member who has previously filed an application for vested benefit form or who has been identified by the System as eligible to receive a retirement benefit due to reaching the age requiring mandatory distribution will be considered to have met the sixty (60) day notice requirement; however, it is the responsibility of any such vested or other member to file a retirement form selecting the type of benefit to be paid prior to the member's requested retirement date. All retirement forms shall be prescribed, produced and approved by the System in order to constitute proper notice and retirement selection.

(b) The sixty (60) day notice requirement can be waived by application to the Executive Director. The application for waiver must state the reason for the request and the decision to grant the waiver is up to the Executive Director. Upon request of the member, the Board may review at its next regular meeting any denial of a waiver by the Executive Director. Members are presumed to be familiar with the plan provisions and aware of the notice requirement and the Executive Director will grant the waiver only for good cause shown. Good cause is generally shown in cases of an unforeseen hardship, such as illness of the member or a member's family or a reduction in force, layoff of employment, or other unexpected change in job status. Good cause is also generally shown in cases of error or delay on the part of the employer and the error or delay is due to no fault of the member.

(c) No retirement benefits are payable until the System verifies that the member has been removed from the payroll; therefore, the initial retirement benefit payment to new retirees shall be made at the end of the month following the month of retirement. Two benefit payments will be made at that time representing the month of retirement and the current month. Following this initial verification period, retirement benefits will be payable each month on the last day of that month.

(d) No retirement benefits shall be payable until the System receives a properly completed retirement form requesting such benefits. Unless otherwise specifically provided by law or by these rules, no benefits shall be payable retroactively

for any time period prior to receiving the member's properly completed retirement form regardless of when the member may have become eligible for such benefits. The requested retirement date of the member shall be made in accordance with the requirements of this section.

590:10-7-18. Post-retirement employment - eligibility

(a) **Retiree subject to restrictions.** Returning to work for a participating employer may affect the retirement benefit of a retiree. A retiree returning to work for a participating employer is subject to various state and federal restrictions, including, but not limited to, the requirements set forth in 74 O.S. § 914 and certain Internal Revenue Service regulations.

(b) **Bona fide termination of employment.** Prior to the payment of any retirement benefit to a member, the participating employer shall certify in writing to the System that the member has terminated ~~their~~ employment. Termination of employment shall be governed by guidelines and regulations set forth by the Internal Revenue Service, and shall generally mean the member must have experienced a bona fide separation, severance or termination of employment or service in which the employer and employee relationship is completely severed. Changing from full-time to part-time employment with the same participating employer does not qualify as a bona fide termination.

(c) **Returning to work for former employer.** A retiree may not be rehired in any capacity by the retiree's same participating employer for a period of one (1) year after the retiree's initial retirement from such same participating employer. A retiree may not enter into an employment contract of any kind, including through a third party, with the same participating employer for a period of one (1) year after retiring from such same participating employer. The provisions of this subsection shall not apply if the retiree waives his or her benefit as provided under 74 O.S. §914(E)(2).

(~~c~~d) **Pre-arranged rehires.** If any agreement is made between the employee and the employer prior to the retirement of the employee which would allow the employee to return to work for the same participating employer, the retirement of such employee shall not be considered a bona fide termination of employment. Upon discovery of such an agreement, the employee shall be subject to having the retirement benefits stopped pursuant to 74 O.S. § 914(D).

(~~d~~e) **Independent contractors.**

(1) A retired member who provides services as an independent contractor to a participating employer shall not participate in the System. However, the employer must submit a copy of the contract to OPERS for approval in advance of the effective date of the contract. The contract must be a true contract labor situation where the individual engages to perform certain services according to his or her own method and manner, free from control and direction of the employer in the performance of the service except the result thereof. Review of the contract shall include, but not be limited to:

(A) the degree of the right to control or supervise the work of the individual;

(B) payment of self-employment taxes;

(C) whether any benefits or leave time are paid;

(D) the nature and length of the contract;

(E) whether the work is part of the regular business of the employer, and;

(F) the right of either party to terminate the relationship without liability.

(2) If an individual after retirement is doing the same work for the same employer as the individual did prior to retirement, the System will consider the individual to be an employee and not an independent contractor. In no event will an employment contract be accepted by the System if it is determined that the contract was arranged or agreed to prior to the retirement of the employee. In such cases, the System will consider the relationship to be that of employer and employee, and the employer and employee will be subject to the laws and rules regarding post-retirement employment.

SUBCHAPTER 19. MEDICARE GAP BENEFIT OPTION

590:10-19-3. Medicare Gap Benefit option

(a) An alternate retirement benefit option is available to members of the Oklahoma Public Employees Retirement System provided an election form is properly completed and filed with the System after the Option Effective Date and prior to the member's effective retirement date. This alternate benefit option shall be called the Medicare Gap Benefit option. The Medicare Gap Benefit option is intended to permit certain members of the System to elect to receive an increased retirement benefit amount to help cover the cost of the health insurance premiums prior to the time that the member becomes Medicare-eligible, however, the Medicare Gap Benefit may not equal or cover the entire cost of the member's actual health insurance premiums.

(b) As a result of the passage of Section 2 of Enrolled Senate Bill 1112 from the 1st Session of the 51st Oklahoma Legislature (2007), members electing the Medicare Gap Benefit Option with a retirement effective date on or after July 1, 2007, shall have the Medicare Gap Benefit determined in accordance with these rules.

(c) Despite any provision to the contrary, all members who made the Medicare Gap Benefit Election with a retirement effective date from May 1, 2006, the Option Effective Date, through June 30, 2007, Medicare Gap Benefit means an adjusted retirement benefit which is greater than the member's Regular Retirement Benefit beginning with the first retirement benefit payment through December of the year the member becomes Medicare-eligible. Beginning in January of the year following such year that the member becomes Medicare-eligible, the retirement benefit will be actuarially reduced making the member's benefit less than the Regular Retirement Benefit for the remaining lifetime of the member.

(d) Any member who has previously filed an application for vested benefits or any other non-active vested member who is considered to have met the sixty (60) day notice requirement for filing his or her retirement application may be permitted to

file the election form provided by this section after the member's effective retirement date. However, this filing shall only be permitted if the System determines the member was unable to timely make such election prior to the effective retirement date. In no event shall the filing of this election form be permitted less than fifteen (15) days prior to the first benefit payment to the member. Any election form received and approved by the System within this fifteen-day period shall result in the retirement date of the member being moved to the next month.

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CONTACT PERSON:
Joseph A. Fox, General Counsel, Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118, 405-858-6737

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 25, 2009:

SUBCHAPTER 1. GENERAL PROVISIONS

590:15-1-10. Purchase price payments

(a) An active member of the System may elect the payment of the actuarial purchase price, the repayment of a previous withdrawal, or any other purchase or repayment permitted and authorized by the statutes governing the System, to be amortized in monthly installments to the extent allowed by law.

(1) A payment schedule may be established allowing the member to make monthly payments through payroll deductions by the member's employer if the employer agrees to make the deductions and remit payments to the System. Payments remitted by an employer for its employees must be kept separate from employer's regular retirement contributions or any other payments to the System including Deferred Compensation. Such payments do not qualify as "pre-tax" contributions under "employer pick-up" provisions of Section 414(h) of the Internal Revenue Code.

(2) The installment payment schedule provided for in this section must be in monthly increments not to exceed sixty (60) months. The minimum total monthly payment is $25.00. The member shall be responsible for maintaining the payment schedule. The payment due date will be based on the payroll schedule set by the member's employer. An installment not paid within sixty (60) days of the due date will result in termination of the installment payment schedule with the member given the option of paying the balance of the actuarial cost or receiving partial credit for payments made under the installment schedule as provided for in subsection (4) of this section.

(3) The monthly payment will be determined by amortizing the total amount due for the service to be purchased over the period of the installment schedule using an interest rate equal to the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings for the year in which the payment schedule is commenced.

(4) Except as provided in subsection (8) of this section, if the installment payment is terminated for any reason, including termination of employment, death of the member or by cessation of payments, the member or the beneficiary of the member will have the option of paying the remaining balance within six (6) months. If the balance is not paid, the member will receive credit for service prorated for only the principal amount paid and rounded to the last full month paid for. No refunds will be paid to the member.

(5) Credit for service purchased on an installment schedule will not be added to the member's account until the entire balance is paid, except as provided for in subsection (4) of this section. All payments must be completed in the month prior to the effective retirement date of the member. If any member or beneficiary elects to pay the balance during the six (6) month period provided for in Subsection (4) of this Section, no benefits will be payable until the completion of said six (6) month period, or receipt of a signed waiver. In no event will retroactive benefit payments be made, and the effective retirement

date will be adjusted to the first day of the month following the completion of payments or receipt of waiver.

(6) Payments may be made directly to the System by the member or beneficiary if the member is in an unpaid leave status, if the payroll is not sufficient to handle the entire payment, in the event of payroll error where employer fails to withhold the proper amount or during the six (6) month period referred to in subsection (4) of this Section.

(7) Except as provided in subsection (8) of this section, if the purchase is terminated for any reason, the purchase cannot be made at anytime in the future, following the six (6) month option referred to in Subsection (4) of this Section. By failing to complete this purchase, the member or beneficiary forfeits the right to the purchase at any other time.

(8) If the installment payment for the repayment of a previous withdrawal is terminated for any reason, the member, upon returning to employment and meeting the eligibility requirements for membership, may pay the remaining principal balance at any time prior to the month of the effective retirement date. The total due shall be the unpaid principal balance, plus interest pursuant to 20 O.S. § 1103C, calculated from the date of the last installment payment received and paid in a one-time lump sum amount.

(b) Effective January 1, 2002, in lieu of installment payments, an active member may elect to make the payment of the actuarial purchase price, or any other eligible purchase or repayment permitted and authorized by the statutes governing the System by use of a direct trustee to trustee transfer from a 457 deferred compensation plan or a 403(b) tax sheltered annuity program.

(c) Effective January 1, 2002, in lieu of installment payments or a direct transfer, an active member may elect to make the payment of the actuarial purchase price, repayment of a previous withdrawal, or any other eligible purchase or repayment permitted and authorized by the statutes governing the System by a rollover. The payment may be made by participant rollover contributions and/or direct rollovers of eligible rollover distributions made after December 31, 2001, from the following:

(1) a qualified plan described in section 401(a) or 403(a) of the Internal Revenue Code;

(2) an annuity contract described in section 403(b) of the Internal Revenue Code;

(3) an eligible plan under section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state; or

(4) a participant rollover contribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the Internal Revenue Code that is eligible to be rolled~~ over and would otherwise be includable in gross income~~.

[OAR Docket #09-496; filed 3-26-09]

TITLE 775. BOARD OF VETERINARY MEDICAL EXAMINERS CHAPTER 10. LICENSURE OF VETERINARIANS, VETERINARY TECHNICIANS AND ANIMAL EUTHANASIA TECHNICIANS

[OAR Docket #09-499]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Licensure of Veterinarians
775:10-3-10.1 Temporary licensure during a declared emergency [NEW]
775:10-3-12. Fees [AMENDED]
Subchapter 7. Certification of Veterinary Technicians
775:10-7-9.1. Duties Performed Without Direct Supervision [AMENDED]
AUTHORITY:
59 O.S. Supp.2007, SEC. 698.1 et seq.; Board of Veterinary Medical Examiners
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SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The proposed revisions to chapter 10, includes language that would allow out of state licensed veterinarians to practice with a temporary license in the event the state has a declared emergency or disaster. Increase the veterinary license renewal for veterinarians to $225.00 annually; impose a $100.00 fee for those licensees that request an extension for the continuing education requirements with an exemption for active military. Also, expansion of duties for registered veterinary technicians if directed by the veterinarian.
CONTACT PERSON:
Cathy Kirkpatrick, Executive Director, 201 N.E 38th Terr. Suite 1, Oklahoma City, OK 73105, 405-524-9006

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 30, 2009:

SUBCHAPTER 3. LICENSURE OF VETERINARIANS

775:10-3-10.1. Temporary licensure during a declared emergency

In the event of a disaster, a veterinarian not licensed in this state that is responding to a request for assistance from Oklahoma Emergency Management or related entity and is licensed and in good standing in another state may apply for temporary licensure on forms provided by the Board. Temporary licensure may be approved by the President or Secretary/Treasurer of the Board.

775:10-3-12. Fees

(a) **Fee Schedule.**

(1) **Examination.** The following fees shall be assessed for licensure and examination of veterinarians:

(A) North American Veterinary Licensing Examination - At Cost + $185.00

(B) Oklahoma State Examination - $150.00

(2) **Licensure.** The following fees shall be assessed for licensure of veterinarians:

(A) Annual renewal (prior to June 30) - ~~$175.00~~ $225.00

(B) Annual renewal Faculty License (prior to July 15) - $175.00

(C) Reactivation fee (between July 1 and August 29) - $275.00

(D) Reinstatement fee (after August 30) - $625.00

(E) Licensure by Endorsement - $625.00

(F) Faculty License - $125.00

(3) **Duplication or modification of license.** A fee of $50.00 shall be assessed for duplication or modification of a veterinary license.

(4) **Supervised Doctor of Veterinary Medicine.** The following fees shall be assessed for certification as a supervised doctor of veterinary medicine:

(A) Original Certificate - $125.00

(B) Extension - $100.00

(C) Transfer - $50.00

(5) **Miscellaneous fees.** The following miscellaneous fees shall be assessed by the Board.

(A) Certification of scores - $40.00

(B) Verification of license - $20.00

(C) Duplication of proof of renewal of license - $10.00

(D) Certification of public records (per page) - $1.00

(E) Duplication of public records (per page) - $.25

(F) Transcript of public records recorded (per page) - At Cost

(G) Issuance of subpoena - $.25

(H) Returned check processing fee - $35.00

(I) Probation fees:

(i) $50.00/month, unless otherwise modified by the Board or the Secretary/Treasurer

(ii) Investigation/Prosecution - at cost (Non-payment of investigation, prosecution or probation costs or fees within 30 days of billing may be grounds for imposition of additional sanctions by the Board).

(J) Declaratory ruling - $300.00 plus costs.

(K) Continuing education extension fee - $100.00 (active military exempt)

(6) **Registered Veterinary technician fees.** The following registered veterinary technician fees shall be assessed by the Board:

(A) National Veterinary Technician Examination - at cost

(B) State Examination - $60.00

(C) Application Processing Fee - $50.00

(D) Certificate - $20.00

(E) Annual Renewal - $45.00

(7) **Animal Euthanasia technician fees.** The following animal euthanasia technician fees shall be assessed by the Board:

(A) Training and Practical Examination - At cost

(B) Oklahoma State Bureau of Investigation criminal history search - At cost

(C) State Written Examination - $60.00

(D) Application Processing Fee - $50.00

(E) Certificate - $20.00

(F) Annual Renewal - $40.00

(G) Reactivation fee - $25.00

(b) **Submission of fees.** All fees are non-refundable.

SUBCHAPTER 7. CERTIFICATION OF VETERINARY TECHNICIANS

775:10-7-9.1. Duties Performed Without Direct Supervision

(a) The duties of a Registered Veterinary Technician shall be performed pursuant to the direction and under the general supervision of a licensed veterinarian. Where appropriate, depending upon the services provided, such general supervision shall not be construed to require the physical presence of the supervising veterinarian at the time and place where such services are performed.

(b) A Registered Veterinary Technician may perform the following procedures listed below as directed by or on the order of a licensed veterinarian without the continuing physical presence of the licensed veterinarian, but the RVT must comply with the general record keeping requirements as set forth in the Oklahoma Veterinary Practice Act:

(1) Euthanasia of animals;

(2) Thoracocentesis;

(3) Abdominocentesis;

(4) Ocular Tonometry, Schirmer tear test, fluorescein staining;

(5) Animal Massage Therapy;

(6) Vaccinations; ~~and~~

(7) Dental Scaling and Polishing;

(8) Suturing existing skin incisions made by a veterinarian;

(9) Microchipping or tattooing for identification purposes;

(10) Pregnancy checking of farm animals with or without diagnostic equipment, rectal palpation, artificial insemination, correcting of uterine prolapse, uncomplicated fetal extractions excluding fetotomies and c-sections;
(11) Flotation or dressing of equine teeth;
(12) Gavage;
(13) Ear flush;
(14) EKG, Ultrasound or other diagnostic imaging or monitoring;
(15) Administration and management of anesthetic and analgesic agents;
(16) Application of splints and bandages; and
(17) Wound management and care.

[OAR Docket #09-499; filed 3-26-09]

TITLE 775. BOARD OF VETERINARY MEDICAL EXAMINERS
CHAPTER 15. INVESTIGATIONS AND DISCIPLINARY ACTIONS

[OAR Docket #09-500]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Purpose and Definitions
775:15-1-2. Definitions [AMENDED]
AUTHORITY:
59 O.S. Supp.2007, SEC. 698.1 et seq.; Board of Veterinary Medical Examiners
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INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The proposed revisions to chapter 15 will be a change in the definition of Complaint; deletion of the words person licensed or certified by the Board and inserts any persons.
CONTACT PERSON:
Cathy Kirkpatrick, Executive Director, 201 N.E 38th Terr. Suite 1, Oklahoma City, OK 73105, 405-524-9006

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 30, 2009:

SUBCHAPTER 1. PURPOSE AND DEFINITIONS

775:15-1-2. Definitions

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

"Act" means the Oklahoma Veterinary Practice Act, 59 O.S. Sec. 698.1, et seq.

"APA" means Article I and/or Article II of the Oklahoma Administrative Procedures Act,
75 O.S. Sec. 250, et seq.

"Board" means the Board of Veterinary Examiners.

"Citizen complaint" means refers to a written or oral statement of complaint from any person of a possible violation of the Act or rules of the Board and which is then available for investigation by the Board's staff.

"Complaint" means a written statement of alleged violation of the Act and/or rules of the Board by ~~a person licensed or certified by the Board~~ any person and which is filed with the Secretary-Treasurer in anticipation of the issuance of a citation. This definition is distinct from citizen complaint.

"Defendant" means the person against whom an individual proceeding is initiated.

"Executive Director" means the Executive Director of the Board.

"Hearing" means the trial mechanism employed by the Board to provide due process to a defendant in an individual proceeding.

"Hearing Examiner" means an Oklahoma licensed attorney who assists and advises the Board regarding legal matters in the conduction of an individual proceeding.

"Individual proceeding" means the formal process by which the Board undertakes administrative disciplinary action against a person licensed or certified by the Board in accordance with the Act and the APA.

"Plaintiff" means the State Of Oklahoma ex rel. Oklahoma State Board of Veterinary Medical Examiners.

"Secretary-Treasurer" means the Secretary-Treasurer of the Board.

"Staff" means employees of the Board or other persons specifically authorized to investigate complaints.

[OAR Docket #09-500; filed 3-26-09]

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

[OAR Docket #09-501]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
775:25-1-4. Supervision Requirements [AMENDED]
AUTHORITY:
59 O.S. Supp.2007, SEC. 698.1 et seq.; Board of Veterinary Medical Examiners
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N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The proposed revisions to chapter 15 will be a change in the definition of Complaint; deletion of the words person licensed or certified by the Board and inserts any persons.
CONTACT PERSON:
Cathy Kirkpatrick, Executive Director, 201 N.E 38th Terr. Suite 1, Oklahoma City, OK 73105, 405-524-9006

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 30, 2009:

775:25-1-4. Supervision Requirements

(a) Each licensed veterinarian shall provide direct supervision of any registered veterinary technician, employed assistant or Supervised Doctor of Veterinary Medicine ("SDVM") who ~~participates in the~~ are involved with their practice of veterinary medicine. ~~, except that when a licensed veterinarian is not on the premises, said licensed veterinarian shall give written instructions for post-operative or follow-up treatment of the animal patient, provided that the animal has been examined by the supervising veterinarian at such time as good veterinary medical practice requires, and the animal is not anesthetized.~~ A licensed veterinarian may delegate only those ~~activities~~ acts within the practice of veterinary medicine that are allowed by law to be delegated ~~to an employee or SDVM~~ and which are consistent with that person's training, experience and professional competence.

(1) When a licensed veterinarian is not on the premises, said licensed veterinarian shall have in place written instructions or a written hospital/clinic policy for follow up treatment of the animal patient, provided that the animal has been examined by the supervising veterinarian at such time as good veterinary medical practice requires.

(2) Reserved

(b) ~~Unless otherwise exempted by statute or specified for SDVM's, a~~ A licensed veterinarian ~~shall not~~ may delegate the procedures referenced by and in accordance with Subchapter 7 of Chapter 10 of these rules ~~any of the following~~ to any registered veterinary technician. ~~or employed assistant:~~

~~(1) any act of diagnosis or prognosis;~~

~~(2) performance of any surgical procedure; or~~

~~(3) the prescribing of any drug, medicine, biologic, apparatus, application, anesthesia or other therapeutic or diagnostic substance or technique.~~

(c) ~~Unless otherwise exempted by statute or specified for SDVM's, a~~ While the licensed veterinarian is physically on the premises they may delegate the following to any registered veterinary technician or employed assistant under direct supervision as defined in 59 O.S. Section 698.2~~, while the licensed veterinarian is physically on the premises~~:

(1) inducing anesthesia by inhalation or intravenous injection;

(2) applying casts or splints;

(3) performing dental extractions; or,

~~(4) suturing existing skin incisions; or,~~

(~~5~~4) administering controlled dangerous substances or veterinary prescription drugs, ~~unless~~ subject to a veterinary-client-patient relationship having ~~has~~ been previously established and if the licensed veterinarian is not on the premises, previously written orders ~~exist when the licensed veterinarian is not on the premises~~ must be in place for the administration of such drugs.

(d) ~~Unless otherwise exempted by statute, a~~ Under direct supervision a licensed veterinarian may delegate any of the following to any SDVM ~~under direct supervision~~;

(1) any act of diagnosis or prognosis;

(2) performance of any surgical procedure;

(3) inducing anesthesia by inhalation or intravenous injection;

(4) applying casts or splints;

(5) performing dental extraction's.

(6) suturing existing skin incisions;

(7) prescribing, dispensing and administering controlled dangerous substances, veterinary prescription drugs or vaccinations. The prescribing, dispensing, and administering of controlled dangerous substances may only be performed after a federal (DEA) controlled dangerous substance certificate and a state Oklahoma Bureau of Narcotics and Dangerous Drug certificate has been procured by the certificate holder (SDVM).

(e) In emergency life saving situations where a licensed veterinarian is not on the premises, a SDVM, registered veterinary technician or an employed assistant who possesses the appropriate training, experience and professional competence may perform the following ~~emergency~~ treatments ~~in a life saving situation~~:

(1) apply tourniquets and/or pressure bandages to control hemorrhage;

(2) administer pharmacological agents to prevent or control shock, including parenteral fluids, provided that the SDVM or employee has direct communication with a licensed veterinarian. When direct communication cannot be established with respect to this paragraph (e), a SDVM or competent employed assistant may provide emergency care in accordance with pre-established written instructions provided by their employer veterinarian(s);

(3) initiate resuscitative oxygen procedures;

(4) establish open airways including intubation appliances but excluding surgery;

(5) perform external cardiac resuscitation;

(6) apply temporary splints or bandages to prevent further injury to bones or soft tissues;

(7) apply wound dressings and external supportive treatment for severe burns; and

(8) provide external supportive treatment in thermal injury cases.

[OAR Docket #09-501; filed 3-26-09]

TITLE 775. BOARD OF VETERINARY MEDICAL EXAMINERS CHAPTER 26. WHOLESALER/DISTRIBUTOR OF VETERINARY PRESCRIPTION DRUGS

[OAR Docket #09-502]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
775:26-1-1. Distribution of veterinary prescription labeled drugs [AMENDED]
AUTHORITY:
59 O.S. Supp.2007, SEC. 698.1 et seq.; Board of Veterinary Medical Examiners
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SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The proposed revision to Chapter 26 defines a Wholesaler or Distributor
CONTACT PERSON:
Cathy Kirkpatrick, Executive Director, 201 N.E 38th Terr. Suite 1, Oklahoma City, OK 73105, 405-524-9006

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 30, 2009:

775:26-1-1. Distribution of veterinary prescription labeled drugs

(a) This chapter sets forth the rules for compliance with those sections of the Oklahoma Pharmacy Act (Pharmacy Act), 59 O.S. Suppl. 2005 §353.1, et seq., which relate to veterinary prescription labeled drugs. A wholesaler or distributor means a person engaged in the business of distributing prescription drugs, including controlled dangerous substances, at wholesale or retail to pharmacies, hospitals, practitioners, government agencies or other lawful drug outlets licensed or permitted under the Pharmacy Act to sell, distribute, deliver or use drugs or medicines.

(b) In accordance with § 353.13 G of the Pharmacy Act, "veterinary prescription labeled drugs", defined as "veterinary prescription drugs" in the Oklahoma Veterinary Practice Act (Act), may be supplied by a "wholesaler or distributor", as those terms are defined in the Pharmacy Act, and shipped directly to a client located in the State of Oklahoma pursuant to a written order of an Oklahoma licensed veterinarian, but only after a valid veterinarian-client-patient relationship (VCPR), as defined in the Act, has been established and referenced in such written order.

(c) No wholesaler or distributor shall sell, dispense or supply a veterinary prescription drug to an owner or their authorized agent in the State of Oklahoma without first obtaining a written order for such drug from an Oklahoma licensed veterinarian with a valid VCPR in place. Certification by a pharmacist prior to dispensing veterinary prescription drugs by a wholesaler or distributor under these rules or under the Pharmacy Act shall not be required. No person shall acquire or use any veterinary prescription drug other than in accordance with the label affixed to the drug container and/or outside of a valid VCPR.

(d) Any wholesaler or distributor selling, supplying or dispensing veterinary prescription drugs for use in the State of Oklahoma shall comply with the dispensing and labeling requirements set forth in Chapter 25 of the Oklahoma Veterinary Administrative Rules found in Title 775 of the Oklahoma Administrative Code.

(e) Any wholesaler or distributor selling, supplying or dispensing veterinary prescription drugs for use in the State of

Oklahoma shall maintain accurate written records containing information relating to the sale and/or distribution of such drugs, with sufficient detail to specifically identify the drug, the veterinarian ordering the drug, the date of distribution, the quantity of the drug, and the client receiving the drug. Such records shall be maintained by the wholesaler or distributor for a period of five years from the date of distribution of the drug and shall include, but not be limited to, the written order received from the veterinarian, a copy of the drug invoice and the bill of lading or other evidence of shipment. The records of a wholesaler or distributor selling, supplying or dispensing veterinary prescription drugs for use in the State of Oklahoma shall be available for inspection upon request by the Oklahoma State Board of Veterinary Medical Examiners or their designated representatives, during reasonable business hours.

(f) A violation of the provisions of the Pharmacy Act pertaining to veterinary prescription labeled drugs, by a person or entity, including an owner, a veterinarian and/or a wholesaler or distributor, shall constitute a violation of the Act.

(g) Every wholesaler or distributor selling, supplying or dispensing veterinary prescription drugs for use in the State of Oklahoma shall annually notify the Board of the name, address and business telephone number of each sales representative and/or veterinarian doing business in Oklahoma that is employed by or under contract with the wholesaler or distributor, by filing a written notice with the Board no later than January 1 of each year on printed forms provided by the Board for such purpose.

[OAR Docket #09-502; filed 3-26-09]

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code.*

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2009-15.

EXECUTIVE ORDER 2009-15

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the powers vested in me by the Oklahoma Statutes in 25 O.S. Section 82.1, hereby order the following dates be observed as holidays by the State of Oklahoma in 2010:

Friday	January 1, 2010	New Year's Day
Monday	January 18, 2010	Martin Luther King, Jr. Day
Monday	February 15, 2010	President's Day
Monday	May 31, 2010	Memorial Day
Monday	July 5, 2010	Independence Day
Monday	September 6, 2010	Labor Day
Thursday	November 11, 2010	Veterans Day
Thursday & Friday	November 25 & 26, 2010	Thanksgiving
Friday	December 24, 2010	Christmas

This Executive Order shall be forwarded to the Director of the Office of Personnel Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 12th day of March, 2009.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #09-384; filed 3-17-09]

1:2009-16.

EXECUTIVE ORDER 2009-16

I, Brad Henry, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Tuesday, March 24, 2009, to honor Specialist Gary L. Moore, an Oklahoma resident, who died on Monday, March 16, 2009, at age 25 while serving in Iraq.

This executive order shall be forwarded to the Director of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 23rd day of March, 2009.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

Brad Henry

ATTEST:
M.Susan Savage
Secretary of State

[OAR Docket #09-472; filed 3-24-09]

1:2009-17.

EXECUTIVE ORDER 2009-17

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the power vested in me by Section 2 of Article VI of the Oklahoma Constitution, hereby declare the following:

1. The Counties of Alfalfa, Beaver, Beckham, Blaine, Caddo, Canadian, Cimarron, Cleveland, Comanche, Cotton, Craig, Creek, Custer, Delaware, Dewey, Ellis, Garfield, Grady, Grant, Greer, Harmon, Harper, Jackson, Kay, Kingfisher, Kiowa, Lincoln, Logan, Major, Mayes, McClain, Noble, Nowata, Oklahoma, Osage, Ottawa, Pawnee, Payne, Pottawatomie, Roger Mills, Rogers, Seminole, Texas, Tillman, Tulsa, Wagoner, Washington, Washita, Woods and Woodward are currently under a severe winter weather watch or warning to include freezing rain, ice, snow, and possible flooding due to ice clogged waterways effective today, March 27, 2009 and continuing.

2. It may be necessary to provide for the rendering of mutual assistance among the State and political subdivisions of the State with respect to carrying out disaster emergency functions during the continuance of the State emergency pursuant to the provisions of the Oklahoma Emergency Management Act of 2003.

3. There is hereby declared a continuing disaster emergency caused by ice storms, snow and flooding in the entire State of Oklahoma that threatens the lives and property of the people of this State and the public's peace, health and safety

4. State agencies, in responding to this continuing disaster emergency, may make necessary emergency acquisitions to fulfill the purposes of this proclamation without regard to limitations or bidding requirements on such acquisitions.

5. The State Emergency Operations Plan has been activated and resources of all State departments and agencies available to meet this emergency are hereby committed to the reasonable extent necessary to protect lives and to prevent, minimize, and repair injury and damage. These efforts shall be coordinated by the Director of the Department of Emergency Management with comparable functions of the federal government and political subdivisions of the State.

6. This Executive Order shall terminate at the end of thirty (30) days.

Copies of this Executive Order shall be distributed to the Director of Emergency Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 27th day of March, 2009.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #09-567; filed 3-31-09]