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Mary Fallin, Governor
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Secretary of State
Peggy Coe, Editor-in-Chief

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Notices of Rulemaking Intent

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

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

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

TITLE 155. OKLAHOMA CONSERVATION COMMISSION CHAPTER 20. CONSERVATION COST-SHARE PROGRAM

[OAR Docket #13-1217]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

155:20-1-5. Eligibility for Conservation Cost-Share Program [AMENDED]

SUMMARY:

The rule change potentially increases the lands that can be considered for cost-share dollars by each of the conservation districts thus allowing each district to establish individualized criteria based on local needs.

AUTHORITY:

Oklahoma Conservation Commission and the Conservation District Act; 27A O.S. §§3-101 et seq; and more specifically 27A O.S. §3-3-114.

COMMENT PERIOD:

Deliver, mail, or email written comments on the proposed rule change to the contact person from November 1, 2013 through December 11, 2013.

PUBLIC HEARING:

A Public hearing has been scheduled for 10:00 am on December 11, 2013, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry located at 2800 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing to the contact person before the close of the comment period on December 11, 2013.

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained by visiting www.ok.gov/conservation or by requesting copies from the contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Conservation Commission at www.ok.gov/conservation or

through the contact person listed below no later than November 15, 2013.

CONTACT PERSON:

Janet Stewart, 2800 North Lincoln Boulevard, Suite 160, Oklahoma City, Oklahoma 73105-4210, (405) 742-1240, janet.stewart@conservation.ok.gov

[OAR Docket #13-1217; filed 10-7-13]

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

[OAR Docket #13-1228]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 13. Student Assessment

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

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

SUMMARY:

The rule at 210:10-13-2 sets forth the general scope and requirements for administration of examinations required by the Oklahoma School Testing Program (OSTP). The rule at 210:10-13-11 sets forth the requirements for administration of exams under the OSTP given to students with disabilities.

The proposed changes to the rules remove references to the Oklahoma Modified Alternate Assessment Program (OMAAP). The proposed changes also update the language relating to the outdated Curriculum Access Resource Guide (CARG). The proposed changes to the rule are necessary to implement the planned phaseout of the OMAAP and clarify requirements for administration of OAAP exams to students with the most serious cognitive disabilities.

AUTHORITY:

State Board of Education; 70 O.S. § 3-104; 70 O.S. §1210.507.

COMMENT PERIOD:

Written comments on the proposed rule will be accepted from November 1, 2013 until 4:30 p.m., Friday, December 6, 2013.

Written comments in electronic form will be accepted during the open public comment period via email at rules@sde.ok.gov or by fax at (405) 521-6256. During the

Notices of Rulemaking Intent

open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person."

Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on Friday, December 6, 2013, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

RULE IMPACT STATEMENT:

A Rule Impact Statement will be available for review at the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

CONTACT PERSON:

Stephanie Moser Goins, Assistant General Counsel, Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 521-4890

[OAR Docket #13-1228; filed 10-9-13]

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

[OAR Docket #13-1229]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

210:10-1-20. Implementation of policies prohibiting harassment, intimidation, and bullying [AMENDED]

SUMMARY:

The rule sets forth the requirements for school districts to implement policies and procedures prohibiting harassment, intimidation and bullying of students in public schools.

The proposed changes to the rule update the definitions in the rules and amend the requirements for public school district policies pertaining to school bullying.

The proposed changes to the rule are necessary to incorporate the amendments to the School Bullying Prevention Act resulting from HB 1661, which was enacted during the 2013 legislative session.

AUTHORITY:

State Board of Education; 70 O.S. § 3-104; 70 O.S. § 24-100.3; 70 O.S. § 24-100.4; 70 O.S. § 24-100.5

COMMENT PERIOD:

Written comments on the proposed rule will be accepted from November 1, 2013 until 4:30 p.m., Friday, December 6, 2013.

Written comments in electronic form will be accepted during the open public comment period via email at rules@sde.ok.gov or by fax at (405) 521-6256. During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person."

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REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

RULE IMPACT STATEMENT:

A Rule Impact Statement will be available for review at the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

CONTACT PERSON:

Stephanie Moser Goins, Assistant General Counsel, Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 521-4890

[OAR Docket #13-1229; filed 10-9-13]

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

[OAR Docket #13-1230]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 13. Student Assessment
- 210:10-13-4. Test security and validity [AMENDED]
- 210:10-13-18. Oklahoma School Accountability System [AMENDED]

SUMMARY:

The rule at 210:10-13-4 sets forth the rules pertaining to test security and invalidation of exams. The rule at 210:10-13-18 sets forth the consequences of testing irregularities or misconduct on test scores and school accountability grades.

The proposed changes to 210:10-13-4 updates the procedures for administration of online exams and administration of exam item tryouts. The proposed changes to 210:10-13-18 update the procedures pertaining to testing irregularities.

The proposed changes to the rule are necessary to meet the requirements for development, field-testing, and validation of criterion-referenced tests established by the Oklahoma School Testing Program Act and to address situations in which one or more exam scores must be invalidated due to testing irregularities beyond the control of the school district.

AUTHORITY:

State Board of Education; 70 O.S. § 3-104; 70 O.S. § 1210.507; 70 O.S. § 1210.508.

COMMENT PERIOD:

Written comments on the proposed rule will be accepted from November 1, 2013 until 4:30 p.m., Friday, December 6, 2013.

Written comments in electronic form will be accepted during the open public comment period via email at rules@sde.ok.gov or by fax at (405) 521-6256. During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person."

Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on Friday, December 6, 2013, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

RULE IMPACT STATEMENT:

A Rule Impact Statement will be available for review at the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

CONTACT PERSON:

Stephanie Moser Goins, Assistant General Counsel, Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 521-4890

[OAR Docket #13-1230; filed 10-9-13]

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

[OAR Docket #13-1231]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. Priority Academic Student Skills Part 13. The Arts
- 210:15-3-114. Overview [AMENDED]
- 210:15-3-114.1. Definitions for visual art [AMENDED]
- 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]

Notices of Rulemaking Intent

- 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]
- 210:15-3-123. The arts for high school [AMENDED]

SUMMARY:

The rules set forth the academic method and process standards for the Visual Arts and General Music in public schools.

70 O.S. § 11-103.6a(A) requires the State Board of Education to review standards in each subject matter area every six (6) years and implement any revisions to the standards necessary to achieve further improvements in the quality of education for Oklahoma public school students. The proposed changes to the rules are necessary to incorporate the revisions to the standards that were implemented by the State Board of Education on July 25, 2013 in accordance with the six (6) year cycle required by statute.

AUTHORITY:

State Board of Education; 70 O.S. § 3-104; 70 O.S. § 11-103.6a.

COMMENT PERIOD:

Written comments on the proposed rule will be accepted from November 1, 2013 until 4:30 p.m., on December 6, 2013.

Written comments in electronic form will be accepted during the open public comment period via email at rules@sde.ok.gov or by fax at (405) 521-6256. During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person."

Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on December 6, 2013, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

RULE IMPACT STATEMENT:

A Rule Impact Statement will be available for review at the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

CONTACT PERSON:

Stephanie Moser Goins, Assistant General Counsel, Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 521-4890

[OAR Docket #13-1231; filed 10-9-13]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 20. STAFF

[OAR Docket #13-1232]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 15. General Competencies for Licensure and Certification

210:20-9-152. General competencies for licensure and certification [AMENDED]

SUMMARY:

The rule establishes general minimum competencies for licensure and certification of public school teachers required by the Oklahoma Teacher Preparation Act at 70 O.S. §6-189(A).

The proposed change to the rule updates the general competencies to be incorporated into the teacher preparation system as necessary to align the general competencies with the standards recommended by the Oklahoma Commission for Teacher Preparation.

AUTHORITY:

State Board of Education; 70 O.S. § 3-104; 70 O.S. § 6-189.

COMMENT PERIOD:

Written comments on the proposed rule will be accepted from November 1, 2013 until 4:30 p.m. on December 6, 2013.

Written comments in electronic form will be accepted during the open public comment period via email at rules@sde.ok.gov or by fax at (405) 521-6256. During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person."

Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on December 6, 2013, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

RULE IMPACT STATEMENT:

A Rule Impact Statement will be available for review at the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

CONTACT PERSON:

Stephanie Moser Goins, Assistant General Counsel, Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 521-4890

[OAR Docket #13-1232; filed 10-9-13]

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

[OAR Docket #13-1233]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 23. School Board Members
- 210:20-23-3. Requirements for new school board member training [AMENDED]
- 210:20-23-4. Requirements for continuing education; certificates; costs [AMENDED]

SUMMARY:

The rules set forth the requirements for instruction for new school board members and the continuing education requirements for all school board members.

The proposed changes to the rules clarify the requirements for new board members who assume office by appointment; address carry-over of excess instructional credits earned; and update the breakdown of hourly requirements for specific categories of instruction.

The proposed changes to the rules are necessary to resolve confusion about the application of 70 O.S. § 5-110 and 5-110.1 and to incorporate the recent amendments to 70 O.S. § 5-110 resulting from the enactment of SB 91 during the 2013 legislative session.

AUTHORITY:

State Board of Education; 70 O.S. § 3-104; 70 O.S. § 5-110; 70 O.S. § 5-110.1.

COMMENT PERIOD:

Written comments on the proposed rule will be accepted from November 1, 2013 until 4:30 p.m., Friday, December 6, 2013.

Written comments in electronic form will be accepted during the open public comment period via email at rules@sde.ok.gov or by fax at (405) 521-6256. During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person."

Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on Friday, December 6, 2013, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

RULE IMPACT STATEMENT:

A Rule Impact Statement will be available for review at the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

Notices of Rulemaking Intent

CONTACT PERSON:

Stephanie Moser Goins, Assistant General Counsel, Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 521-4890

[OAR Docket #13-1233; filed 10-9-13]

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

[OAR Docket #13-1234]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and Technology Schools

Part 19. Standard X: School Facilities

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

SUMMARY:

The rule sets forth the health and safety standards for public school facilities.

The proposed changes to the rule amend the requirements for school safety drills required to be conducted in each school year; update statutory references; and reorganize the rule to make the rule easier to understand.

The proposed changes to the rule are necessary to incorporate the recent amendments to 70 O.S. § 5-148 and the new law added at 70 O.S. § 5-149 resulting from the enactment of SB 256 during the 2013 legislative session.

AUTHORITY:

State Board of Education; 70 O.S. § 3-104; 70 O.S. § 5-148; 70 O.S. § 5-149; 63 O.S. § 681.

COMMENT PERIOD:

Written comments on the proposed rule will be accepted from November 1, 2013 until 4:30 p.m., Friday, December 6, 2013.

Written comments in electronic form will be accepted during the open public comment period via email at rules@sde.ok.gov or by fax at (405) 521-6256. During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person."

Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on Friday, December 6, 2013, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

RULE IMPACT STATEMENT:

A Rule Impact Statement will be available for review at the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

CONTACT PERSON:

Stephanie Moser Goins, Assistant General Counsel, Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 521-4890

[OAR Docket #13-1234; filed 10-9-13]

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

[OAR Docket #13-1235]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED 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]

SUMMARY:

The rule sets forth the accreditation standards for public secondary schools relating to high school graduation requirements.

The proposed changes to the rule update the standard to reflect recent amendments to 70 O.S. § 11-103.6.

AUTHORITY:

State Board of Education; 70 O.S. § 3-104; 70 O.S. § 11-103.6; § 11-103.6h

COMMENT PERIOD:

Written comments on the proposed rule will be accepted from November 1, 2013 until 4:30 p.m., Friday, December 6, 2013.

Written comments in electronic form will be accepted during the open public comment period via email at rules@sde.ok.gov or by fax at (405) 521-6256. During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person."

Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on Friday, December 6, 2013, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

RULE IMPACT STATEMENT:

A Rule Impact Statement will be available for review at the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

CONTACT PERSON:

Stephanie Moser Goins, Assistant General Counsel, Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard,

Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 521-4890

[OAR Docket #13-1235; filed 10-9-13]

**TITLE 377. OFFICE OF JUVENILE AFFAIRS
CHAPTER 1. FUNCTION AND STRUCTURE
OF THE OFFICE OF JUVENILE AFFAIRS**

[OAR Docket #13-1222]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Function and Structure of the Office of Juvenile Affairs

377:1-1-11. Executive Director [AMENDED]

SUMMARY:

Proposed rule revision is to eliminate an erroneous statute reference.

AUTHORITY:

The Board of Juvenile Affairs, pursuant to 10A O.S., Sections 2-7-101(H)(3), 2-7-101(I)(1), and 75 O.S. § 302(A)(1).

COMMENT PERIOD:

Written comments will be accepted during regular business hours from November 2, 2013 through December 2, 2013 at: Office of Juvenile Affairs, Attn: JLynn Hartman, 3812 N. Santa Fe Ave., P.O. Box 268812, Oklahoma City, OK 73126-8812, and e-mail comments may be sent to JLynn.Hartman@oja.ok.gov. During the same time period, oral comments may be made to JLynn Hartman at (405) 530-2866 during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on December 4, 2013 at the Centennial Building, 3815 N. Santa Fe Ave., Ste. 170, Oklahoma City, OK. Each person must sign-in at the door to orally present his or her comments.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules, to submit this information in writing during the comment period to JLynn Hartman.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Oklahoma City, OK, as well as on the OJA website. Copies may also be obtained by written request mailed to the Office of Juvenile Affairs, Attn: JLynn Hartman, P.O. Box 268812, Oklahoma City, OK 73126-8812.

Notices of Rulemaking Intent

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement is being prepared and will be available for review on or before November 1, 2013 at the above address for the Office of Juvenile Affairs, as well as on the OJA website.

CONTACT PERSON:

JLynn Hartman, Director of Government Relations, (405) 530-2866.

[OAR Docket #13-1222; filed 10-9-13]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES

[OAR Docket #13-1223]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Office of the Executive Director

Part 3. Office of the Advocate General

377:3-1-20. Legal base and authority [AMENDED]

377:3-1-21. Definitions [AMENDED]

377:3-1-25. Abuse, neglect, and caretaker misconduct of a child in OJA custody and placed in a secure facility or other facility operated by or through contract with OJA [AMENDED]

377:3-1-27. OJA grievance policy [AMENDED]

377:3-1-28. General Grievance Procedure [AMENDED]

SUMMARY:

Proposed rule revisions are the result of the promulgation of the national standards for the elimination of prison rape, pursuant to the Prison Rape Elimination Act, which was finally promulgated on June 20, 2012. These proposed rule revisions are in anticipation of the required audits by the federal government that commence August 20, 2013. The proposed rules are necessary in order to conform to the Prison Rape Elimination Act concerning the reporting process within juvenile facilities that are operated or contracted by the Office of Juvenile Affairs.

AUTHORITY:

The Board of Juvenile Affairs, pursuant to 10A O.S., Sections 2-7-101(H)(3), 2-7-101(I)(1), and 75 O.S. § 302(A)(1).

COMMENT PERIOD:

Written comments will be accepted during regular business hours from November 2, 2013 through December 2, 2013 at: Office of Juvenile Affairs, Attn: JLynn Hartman, 3812 N. Santa Fe Ave., P.O. Box 268812, Oklahoma City, OK 73126-8812, and e-mail comments may be sent to JLynn.Hartman@oja.ok.gov. During the same time period, oral comments may be made to JLynn Hartman at (405) 530-2866 during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on December 4, 2013 at the Centennial Building, 3815 N. Santa Fe Ave., Ste. 170, Oklahoma City, OK. Each person must sign-in at the door to orally present his or her comments.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules, to submit this information in writing during the comment period to JLynn Hartman.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Oklahoma City, OK, as well as on the OJA website. Copies may also be obtained by written request mailed to the Office of Juvenile Affairs, Attn: JLynn Hartman, P.O. Box 268812, Oklahoma City, OK 73126-8812.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement is being prepared and will be available for review on or before November 1, 2013 at the above address for the Office of Juvenile Affairs, as well as on the OJA website.

CONTACT PERSON:

JLynn Hartman, Director of Government Relations, (405) 530-2866.

[OAR Docket #13-1223; filed 10-9-13]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES

[OAR Docket #13-1224]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Office of the Executive Director

Part 3. Office of the Advocate General

377:3-1-30. Grievance procedures for institutions, group homes, and contract facilities [AMENDED]

SUMMARY:

Proposed rule revisions in consideration of the OJA grievance procedures, which are a duplication of 377:3-1-28. The proposed rule eliminates the duplication and erroneous conflicting timelines for the OJA grievance process.

AUTHORITY:

The Board of Juvenile Affairs, pursuant to 10A O.S., Sections 2-7-101(H)(3), 2-7-101(I)(1), and 75 O.S. § 302(A)(1).

COMMENT PERIOD:

Written comments will be accepted during regular business hours from November 2, 2013 through December 2, 2013 at: Office of Juvenile Affairs, Attn: JLynn Hartman, 3812 N. Santa Fe Ave., P.O. Box 268812, Oklahoma City, OK 73126-8812, and e-mail comments may be sent to JLynn.Hartman@oja.ok.gov. During the same time period, oral comments may be made to JLynn Hartman at (405) 530-2866 during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on December 4, 2013 at the Centennial Building, 3815 N. Santa Fe Ave., Ste. 170, Oklahoma City, OK. Each person must sign-in at the door to orally present his or her comments.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules, to submit this information in writing during the comment period to JLynn Hartman.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Oklahoma City, OK, as well as on the OJA website. Copies may also be obtained by written request mailed to the Office of Juvenile Affairs, Attn: JLynn Hartman, P.O. Box 268812, Oklahoma City, OK 73126-8812.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement is being prepared and will be available for review on or before November 1, 2013 at the above address for the Office of Juvenile Affairs, as well as on the OJA website.

CONTACT PERSON:

JLynn Hartman, Director of Government Relations, (405) 530-2866.

[OAR Docket #13-1224; filed 10-9-13]

**TITLE 377. OFFICE OF JUVENILE AFFAIRS
CHAPTER 3. ADMINISTRATIVE SERVICES**

[OAR Docket #13-1225]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 13. Office of Public Integrity
- Part 11. Requirements for Certification of Secure Juvenile Facilities
- 377:3-13-122. Requirements for secure juvenile facilities [AMENDED]

SUMMARY:

Proposed rule revisions are the result of the promulgation of the national standards for the elimination of prison rape, pursuant to the Prison Rape Elimination Act, which was finally promulgated on June 20, 2012. These proposed rule revisions are in anticipation of the required audits by the federal government that commence August 20, 2013. The Office of Juvenile Affairs, as the licensing body for secure facilities, must incorporate the national standards into its licensing requirements.

AUTHORITY:

The Board of Juvenile Affairs, pursuant to 10A O.S., Sections 2-7-101(H)(3), 2-7-101(I)(1), and 75 O.S. § 302(A)(1).

COMMENT PERIOD:

Written comments will be accepted during regular business hours from November 2, 2013 through December 2, 2013 at: Office of Juvenile Affairs, Attn: JLynn Hartman, 3812 N. Santa Fe Ave., P.O. Box 268812, Oklahoma City, OK 73126-8812, and e-mail comments may be sent to JLynn.Hartman@oja.ok.gov. During the same time period, oral comments may be made to JLynn Hartman at (405) 530-2866 during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on December 4, 2013 at the Centennial Building, 3815 N. Santa Fe Ave., Ste. 170, Oklahoma City, OK. Each person must sign-in at the door to orally present his or her comments.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules, to submit this information in writing during the comment period to JLynn Hartman.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Oklahoma City, OK, as well as on the OJA website. Copies may also be obtained by written request mailed to the Office of Juvenile Affairs, Attn: JLynn Hartman, P.O. Box 268812, Oklahoma City, OK 73126-8812.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement is being prepared and will be available for review on or before November 1, 2013 at the above address for the Office of Juvenile Affairs, as well as on the OJA website.

CONTACT PERSON:

JLynn Hartman, Director of Government Relations, (405) 530-2866.

[OAR Docket #13-1225; filed 10-9-13]

Notices of Rulemaking Intent

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 10. OFFICE OF JUVENILE AFFAIRS

[OAR Docket #13-1226]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

377:10-1-4. Use of physical force and/or mechanical restraints [AMENDED]

SUMMARY:

Proposed rule revisions are the result of the Terry D. Settlement Agreement, dated August 10, 2012, effective January 24, 2013, which pertain to the Oklahoma Office of Juvenile Affairs ("OJA") and the plaintiff class of children in Terry D., et al. v. Rader, et al., Case No. CIV-78-4-T, in the United States District Court for the Western District of Oklahoma. The proposed rules are necessary in order to conform to the Settlement Agreement concerning the operations of the juvenile institutions under OJA jurisdiction.

AUTHORITY:

The Board of Juvenile Affairs, pursuant to 10A O.S., Sections 2-7-101(H)(3), 2-7-101(I)(1), and 75 O.S. § 302(A)(1).

COMMENT PERIOD:

Written comments will be accepted during regular business hours from November 2, 2013 through December 2, 2013 at: Office of Juvenile Affairs, Attn: JLynn Hartman, 3812 N. Santa Fe Ave., P.O. Box 268812, Oklahoma City, OK 73126-8812, and e-mail comments may be sent to JLynn.Hartman@oja.ok.gov. During the same time period, oral comments may be made to JLynn Hartman at (405) 530-2866 during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on December 4, 2013 at the Centennial Building, 3815 N. Santa Fe Ave., Ste. 170, Oklahoma City, OK. Each person must sign-in at the door to orally present his or her comments.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules, to submit this information in writing during the comment period to JLynn Hartman.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Oklahoma City, OK, as well as on the OJA website. Copies may also be obtained by written request mailed to the Office of Juvenile Affairs, Attn: JLynn Hartman, P.O. Box 268812, Oklahoma City, OK 73126-8812.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement is being prepared and will be available for review on or before November 1, 2013 at the above address for the Office of Juvenile Affairs, as well as on the OJA website.

CONTACT PERSON:

JLynn Hartman, Director of Government Relations, (405) 530-2866.

[OAR Docket #13-1226; filed 10-9-13]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 10. OFFICE OF JUVENILE AFFAIRS

[OAR Docket #13-1227]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Agreements Between States for Placement and Transfer of Juveniles

377:10-5-1. Purpose [AMENDED]

377:10-5-2. Legal authority [AMENDED]

377:10-5-4. Interstate Compact on the Placement of Children [AMENDED]

377:10-5-5. Compact Administrator [NEW]

SUMMARY:

Proposed rule revisions interpret and implement Senate Bill 301 (2013), pertaining to a State Council for Interstate Juvenile Supervision, as provided for in the Interstate Compact for Juveniles Act, as found in 10A O.S., § 2-9-101 through 2-9-116.

AUTHORITY:

The Board of Juvenile Affairs, pursuant to 10A O.S., Sections 2-7-101(H)(3), 2-7-101(I)(1), and 75 O.S. § 302(A)(1).

COMMENT PERIOD:

Written comments will be accepted during regular business hours from November 2, 2013 through December 2, 2013 at: Office of Juvenile Affairs, Attn: JLynn Hartman, 3812 N. Santa Fe Ave., P.O. Box 268812, Oklahoma City, OK 73126-8812, and e-mail comments may be sent to JLynn.Hartman@oja.ok.gov. During the same time period, oral comments may be made to JLynn Hartman at (405) 530-2866 during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on December 4, 2013 at the Centennial Building, 3815 N. Santa Fe Ave., Ste. 170, Oklahoma City, OK. Each person must sign-in at the door to orally present his or her comments.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide, in dollar amounts

if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules, to submit this information in writing during the comment period to JLynn Hartman.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Oklahoma City, OK, as well as on the OJA website. Copies may also be obtained by written request mailed to the Office of Juvenile Affairs, Attn: JLynn Hartman, P.O. Box 268812, Oklahoma City, OK 73126-8812.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement is being prepared and will be available for review on or before November 1, 2013 at the above address for the Office of Juvenile Affairs, as well as on the OJA website.

CONTACT PERSON:

JLynn Hartman, Director of Government Relations, (405) 530-2866.

[OAR Docket #13-1227; filed 10-9-13]

**TITLE 610. STATE REGENTS FOR HIGHER EDUCATION
CHAPTER 15. EDUCATIONAL OUTREACH**

[OAR Docket #13-1220]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. Robert S. Kerr Conference Center [REVOKED]
- 610:15-3-1. Purpose [REVOKED]
- 610:15-3-2. Utilization Policy [REVOKED]
- 610:15-3-3. Administration and management of Center [REVOKED]
- 610:15-3-4. Operating budget [REVOKED]
- 610:15:3-5. Financial and program reports [REVOKED]
- 610:15:3-6. Internal control and accounting procedures [REVOKED]
- 610:15:3-7. Changes in policy and procedures [REVOKED]

SUMMARY:

The proposed rule changes address the following issues:

The Center is no longer being used by Carl Albert State College (College). For the last several years maintenance and operation of the Center have become a financial burden for the College. Its Board of Regents has rejected an offer from the State of Oklahoma to take title to the property. All museum artifacts have been retrieved by the local historical society. All catering equipment, paintings and artwork have been secured and stored in appropriate locations at the College.

AUTHORITY:

70 O.S. §3206 (i); Oklahoma State Regents for Higher Education

COMMENT PERIOD:

Interested persons may submit written and oral comments to David B. Harting, Assistant General Counsel, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104, by 5:00 p.m., December 2, 2013.

PUBLIC HEARING:

A public hearing has not been scheduled; however, one can be requested by contacting David B. Harting, Associate General Counsel, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104 by 5:00 p.m., December 2, 2013.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained at the Office of the Chancellor, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained at the Office of the Chancellor, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104 on and after November 1, 2013.

CONTACT PERSON:

David B. Harting, Assistant General Counsel, Oklahoma State Regents for Higher Education, (405) 225-9289.

[OAR Docket #13-1220; filed 10-8-13]

**TITLE 610. STATE REGENTS FOR HIGHER EDUCATION
CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS**

[OAR Docket #13-1218]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. Academic Scholars Program
- 610:25-1-5. Criteria for Annual Renewal [AMENDED]
- 610:25-1-7. Fiscal Aspects of Program [AMENDED]

SUMMARY:

The proposed rule changes address the following issues:

Summer Awards: The proposed revisions clarify that students may receive a full-semester award during the summer if the student enrolls full-time in at least 12 semester credit hours. The summer award will count toward the student's overall scholarship limit of eight full-time semester awards, so no additional fiscal impact to the program is expected. The proposed change will accommodate those students capable of completing their undergraduate degree in less than

Notices of Rulemaking Intent

four calendar years. The proposed change also recognizes alternate semester structures such as the trimester system at the University of Science and Arts of Oklahoma (USAO) which provides three equal trimesters each academic year allowing students to earn 36 credit hours or more per year.

Clarification of Institution Tuition Waiver Award: State system colleges and universities are required to provide program participants a tuition waiver award in addition to the cash award paid by the program. The proposed revision clarifies that the combined amount of the program award and the institution tuition waiver may not exceed the average costs of tuition and fees, room and board, and required textbooks or materials.

AUTHORITY:

70 O.S. §2401 *et seq.*; 70 O.S. §3206 (i); Oklahoma State Regents for Higher Education

COMMENT PERIOD:

Interested persons may submit written and oral comments to David B. Harting, Assistant General Counsel, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104, by 5:00 p.m., December 2, 2013.

PUBLIC HEARING:

A public hearing has not been scheduled; however, one can be requested by contacting David B. Harting, Assistant General Counsel, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104 by 5:00 p.m., December 2, 2013.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained at the Office of the Chancellor, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained at the Office of the Chancellor, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104 on and after November 1, 2013.

CONTACT PERSON:

David B. Harting, Assistant General Counsel, Oklahoma State Regents for Higher Education, (405) 225-9289.

[OAR Docket #13-1218; filed 10-8-13]

TITLE 610. STATE REGENTS FOR HIGHER EDUCATION

CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS

[OAR Docket #13-1219]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 33. Regional University Baccalaureate Scholarship Program

610:25-33-2. Definitions [AMENDED]

610:25-33-3. General Provisions [AMENDED]

610:25-33-5. Criteria for Continued Eligibility [AMENDED]

SUMMARY:

The proposed rule changes address the following issues:

Summer Awards: The proposed revisions clarify that students may receive a summer award for part-time or full-time enrollment. The summer award will count toward the student's overall scholarship limit of eight full-time semester awards, so no additional fiscal impact to the program is expected. The proposed change will accommodate those students capable of completing their undergraduate degree in less than four calendar years. The proposed change also recognizes alternate semester structures such as the trimester system at the University of Science and Arts of Oklahoma (USAO) which provides three equal trimesters each academic year allowing students to earn 36 credit hours or more per year.

Disability Accommodation: The proposed revisions provide for the accommodation of students with disabilities for eligibility and retention requirements. The disability provisions are based on similar existing rules for the Academic Scholars Program.

Updates of Citations to State Regents' Policy: The proposed revisions also provide clerical updates to references to State Regents' policy.

AUTHORITY:

70 O.S. §3206 (i); Oklahoma State Regents for Higher Education

COMMENT PERIOD:

Interested persons may submit written and oral comments to David B. Harting, Assistant General Counsel, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104, by 5:00 p.m., December 2, 2013.

PUBLIC HEARING:

A public hearing has not been scheduled; however, one can be requested by contacting David B. Harting, Assistant General Counsel, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104 by 5:00 p.m., December 2, 2013.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained at the Office of the Chancellor, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained at the Office of the Chancellor, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104 on and after November 1, 2013.

CONTACT PERSON:

David B. Harting, Assistant General Counsel, Oklahoma
State Regents for Higher Education, (405) 225-9289.

[OAR Docket #13-1219; filed 10-8-13]

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 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

[OAR Docket #13-1221]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 5. Eligibility and Countable Income
 - Part 1. Determination of Qualifying Categorical Relationships
317:35-5-7. [AMENDED]
 - Part 5. Countable Income and Resources
317:35-5-43. [AMENDED]
317:35-5-44. [AMENDED]
317:35-5-45. [AMENDED]
317:35-5-46. [AMENDED]
 - Subchapter 6. SoonerCare for Pregnant Women and Families with Children
 - Part 1. General
317:35-6-1. [AMENDED]
 - Part 3. Application Procedures
317:35-6-15. [AMENDED]
 - Part 5. Determination of Eligibility for SoonerCare Health Benefits for Pregnant Women and Families with Children
317:35-6-35. [AMENDED]
317:35-6-36. [AMENDED]
317:35-6-37. [AMENDED]
 - Part 7. Certification, Redetermination and Notification
317:35-6-60.1. [AMENDED]
317:35-6-61. [AMENDED]
 - Subchapter 7. Medical Services
 - Part 5. Determination of Eligibility for Medical Services
317:35-7-48. [AMENDED]
 - Subchapter 9. ICF/MR, HCBW/MR, and Individuals Age 65 or Older in Mental Health Hospitals
 - Part 7. Determination of Financial Eligibility
317:35-9-67. [AMENDED]
 - Subchapter 10. Other Eligibility Factors for Families with Children and Pregnant Women
 - Part 3. Resources
317:35-10-10. [AMENDED]
 - Part 5. Income
317:35-10-25. [AMENDED]
317:35-10-26. [AMENDED]
 - Subchapter 15. Personal Care Services
317:35-15-6. [AMENDED]
 - Subchapter 19. Nursing Facility Services
317:35-19-20. [AMENDED]
- (Reference APA WF # 13-08)

AUTHORITY:

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

DATES:

Adoption:

September 12, 2013

Approved by Governor:

September 24, 2013

Effective:

Immediately upon Governor's approval

Expiration:

Effective through September 14, 2014, 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 the Agency's eligibility policy. These emergency rule revisions allow the State to correct regulatory complications created by federal rules; they implement a waiver of the federal requirement that the State use two sets of financial eligibility rules for pregnant women and families with children from October 1, 2013 to March 31, 2014, thereby avoiding serious prejudice to the public interest.

ANALYSIS:

Eligibility policy is amended to implement Systems Simplification Implementation rules effective October 1, 2013, instead of January 1, 2014. Rules are also revised to delay periodic renewals that would fall during the period January - March, 2014 until April, 2014, and to delay the effective date of terminations of SoonerCare eligibility for reasons related to changes in household composition or income until April, 2014 when the agency is redetermining eligibility based on changes in circumstances from January to March, 2014. These rule changes allow the state to avoid having to use two sets of eligibility rules for MAGI groups (children, pregnant women, parents and caretaker relatives, Soon-To-Be-Sooners, and the SoonerPlan Family Planning Program) from October 2013 to March 2014.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

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

SUBCHAPTER 5. ELIGIBILITY AND COUNTABLE INCOME

PART 1. DETERMINATION OF QUALIFYING CATEGORICAL RELATIONSHIP

Emergency Adoptions

317:35-5-7. Determining categorical relationship to the children and parent and caretaker relative groups

(a) **Categorical relationship.** All individuals under age 19 are automatically related to the children's group and further determination is not required. Adults age 19 or older are related to the parent and caretaker relative group when there is a minor dependent child(ren) in the home and the individual is the parent, or is the caretaker relative other than the parent who meets the proper degree of relationship. A minor dependent child is any child who meets the AFDC eligibility requirements of age and relationship.

(b) **Grandfathered CHIP children.** As provided in OAC 317:35-6-1, the MAGI methodology is not applied to determine eligibility for children who are enrolled in SoonerCare on December 31, 2013 until March 31, 2014 or the child's next regularly scheduled renewal, whichever is later.

(1) The MAGI methodology eliminates the following income disregards, which are subtracted from gross income under the TANF methodology prior to ~~January~~ ~~October~~ 1, 2014 ~~2013~~:

(A) The \$240 work related expense deduction from earned income per employed household member;

(B) The disregard of the first \$50 of child support received by a household; and

(C) The deduction for child support expenses paid by an employed parent or caretaker who needs child care in order to work, in the amount of the actual expense paid up to a maximum of \$200 per month for children under 2 years of age and up to a maximum of \$175 per month for children 2 years of age or older.

(2) If the elimination of the disregards listed in (1) when the MAGI methodology is applied to a child who was enrolled in SoonerCare on December 31, 2013 makes the child financially ineligible, the child is related to the Grandfathered CHIP children group.

(3) The following children are not eligible for the Grandfathered CHIP Children group:

(A) Children who are eligible for SoonerCare through another eligibility group;

(B) Children who have other creditable health insurance coverage;

(C) Children who are inmates of public institutions or are patients in institutions for mental disease; or

(D) Children who are eligible for coverage under a health plan offered to employees of the State of Oklahoma.

(4) If a child's eligibility in this group is redetermined during his/her certification period and the child is financially ineligible without regard to elimination of the disregards in (1), the child's benefits are closed using normal procedures.

(5) Eligibility for children in this group expires on the date of the child's next regularly scheduled recertification after the recertification for which the MAGI methodology was first used. This eligibility group terminates for all children December 31, 2015.

(c) **Requirement for referral to the Oklahoma Child Support Services Division (OCSS).** As a condition of eligibility, when both the parent or caretaker and minor child(ren) are receiving SoonerCare and a parent is absent from the home, the parent or caretaker relative must agree to cooperate with OCSS. However, federal regulations provide for a waiver of this requirement when cooperation with OCSS is not in the best interest of the child. OCSS is responsible for making the good cause determination. If the parent or caretaker relative is claiming good cause, he/she cannot be certified for SoonerCare in the parent and caretaker relative group unless OCSS has determined good cause exists. There is no requirement of cooperation with OCSS for child(ren) or pregnant women to receive SoonerCare.

PART 5. COUNTABLE INCOME AND RESOURCES

317:35-5-43. Third party resources; insurance, workers' compensation and Medicare

Federal Regulations require that all reasonable measures to ascertain legal liability of third parties to pay for care and services be taken. In instances where such liability is found to exist after SoonerCare has been made available, reimbursement to the extent of such legal liability must be sought. The applicant or member must fully disclose to OHCA that another resource may be available to pay for care. If OKDHS obtains information regarding other available resources from a third party, the worker must complete OKDHS Form 08AD050E, and submit to OHCA, Third Party Liability Unit. Certification or payment in behalf of an eligible individual may not be withheld because of the liability of a third party when such liability or the amount cannot be currently established or is not currently available to pay the individual's medical expense. The rules in this Section also apply when an individual categorically related to pregnancy-related services plans to put the child up for adoption. Any agreement with an adoption agency or attorneys shall include payment of medical care and must be considered as a possibly liable third party, regardless of whether agreement is made during prenatal, delivery or postpartum periods.

(1) Insurance.

(A) **Private insurance.** An individual requesting SoonerCare is responsible for identifying and providing information on any private medical insurance. He/she is also responsible for reporting subsequent changes in insurance coverage.

(B) **Government benefits.** Individuals requesting SoonerCare who are also eligible for Civilian Health and Medical Programs for Uniformed Services (CHAMPUS), must disclose that the coverage is available. They are considered a third party liability source.

(2) **Workers' Compensation.** An applicant for SoonerCare or a SoonerCare member that requires medical care because of a work injury or occupational disease must

notify OHCA/TPL immediately and assist OHCA in ascertaining the facts related to the injury or disease (such as date, details of the accident, etc.). The OHCA periodically matches data with the Worker's Compensation Court on all cases under its jurisdiction. When any information regarding an applicant for SoonerCare or a SoonerCare member is obtained, the member must assist OHCA with the subrogation claim with the employer/insurer.

(3) **Third party liability (accident or injury).** When medical services are required for an applicant of SoonerCare or a SoonerCare member as the result of an accident or injury known to the worker, the member is responsible for reporting to OHCA/TPL the persons involved in the accident, date and details of the accident and possible insurance benefits which might be made available. If an automobile accident involves more than one car it is necessary to report liability insurance on all cars involved.

(A) If OKDHS receives information regarding a SoonerCare member or applicant seeking medical services due to an accident, the worker submits any information available to OHCA/TPL.

(B) If OHCA receives a claim for payment from SoonerCare funds and the diagnosis indicates the need for services may have resulted from an accident or injury involving third party liability, OHCA will attempt to contact the member to obtain details of the incident. If additional contact is necessary with the member, the local OKDHS office or OHCA representative may be requested by the OHCA/TPL Unit to submit the appropriate information.

(4) **Medicare eligibility.** If it appears the applicant may be eligible for Medicare but does not have a Medicare card or other verification, the information is cleared with the Social Security Office and the findings entered with the date of the verification in the record. If the applicant did not enroll for Part A or Part B at the time he/she became eligible for Medicare and is now subject to pay an escalated premium for Medicare enrollment, he/she is required to do so. Payment can be made for services within the scope of SoonerCare.

(5) **Absent parent.**

(A) Applicants are required to cooperate with the Oklahoma Department of Human Services Oklahoma Child Support Services (OCSS) in the assignment of child/spousal support rights. The families involved are those with a minor child(ren) in the home. The child(ren) must be related to the children's, the blind, or the disabled groups and have a parent(s) absent from the home. Any support collected on behalf of these families will be paid to them as if they were receiving non-public assistance child support services, with one exception. The exception is regarding child support collected for foster care child(ren) in OKDHS temporary custody. This support is paid to OKDHS Children and Family Services Division (CFSD). The child support income continues to be counted in determining SoonerCare eligibility if it is counted under the financial eligibility methodology used for

the group for which eligibility is being determined. The rules in OAC 317:10317:35-10 are used, with the following exceptions:

(i) In the event the family already has an existing child support case, the only action required is a memo to the appropriate OCSS district office notifying them of the certification.

(ii) Prior to ~~January~~October 1, ~~2014~~2013, child/spousal support is always counted as income less any applicable income disregard. This income inclusion applies whether it is redirected to the CFSD or retained by the member. Effective ~~January~~October 1, ~~2014~~2013, see rules regarding financial eligibility for the individual's eligibility group to determine whether child/spousal support is counted as income.

(iii) Children who are in custody of OKDHS may be exempt from referral to OCSS. Should the pursuit of the OCSS services be determined to be detrimental to the OKDHS CFSD service plan, an exemption may be approved.

(B) Cash medical support may be ordered to be paid to the OHCA by the non-custodial parent if there is no access to health insurance at a reasonable cost or if the health insurance is determined not accessible to the child according to OCSS Rules. Reasonable is deemed to be 5% or less of the non-custodial parent's gross income. The administration and collection of cash medical support will be determined by OKDHS OCSS and will be based on the income guidelines and rules that are applicable at the time. However, at no time will the non-custodial parent be required to pay more than 5% of his/her gross income for cash medical support unless payment in excess of 5% is ordered by the Court. The disbursement and hierarchy of payments will be determined pursuant to OKDHS/OCSS guidelines.

317:35-5-44. Child/spousal support

The Omnibus Budget Reconciliation Act of 1987 requires the Oklahoma Department of Human Services to provide Child Support Services to certain families receiving SoonerCare benefits through the Oklahoma Child Support Services Division (OCSS). The families are required to cooperate in assignment of medical support rights. These families will not be required to cooperate with the OCSS in the assignment of child/spousal support rights. The families involved are those with a minor child(ren) in the home. The child(ren) must be related to the children's, the blind or the disabled groups and have a parent(s) absent from the home. Any support collected on behalf of these families will be paid to them as if they were receiving non-public assistance child support services, with one exception. The exception is regarding child support collected for foster care child(ren) in OKDHS temporary custody. This support is paid to OKDHS Children and Family Services Division (CFSD). The rules in OAC 317:10 are used, with the following exceptions:

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(1) In the event the family already has an existing child support case, the only action required is a memo to the appropriate OCSS district office notifying them of the certification.

(2) Prior to ~~January-October 1, 2014~~2013, child/spousal support is always counted as income less any applicable income disregard. This income inclusion applies whether it is redirected to the OCSS or retained by the member. Effective ~~January-October 1, 2014~~2013, see rules regarding financial eligibility for the individual's eligibility group to determine whether child or spousal support is counted as income.

(3) Children who are in custody of OKDHS may be exempt from referral to OCSS. Should the pursuit of the OCSS services be determined to be detrimental to the OKDHS CFSD service plan, an exemption may be approved.

317:35-5-45. Determination of income and resources for children and parents and caretaker relatives

(a) ~~Prior to January-October 1, 2014~~2013. Income is determined in accordance with OAC 317:35-10 for individuals categorically related to AFDC. Unless questionable, the income of categorically needy individuals who are categorically related to AFDC does not require verification. Individuals categorically related to AFDC are excluded from the AFDC resource test. Certain AFDC rules are specific to money payment cases and are not applicable when only SoonerCare services are requested. Exceptions to the AFDC rules are:

- (1) the deeming of the parent(s)' income to the minor parent;
- (2) the deeming of the sponsor's income to the sponsored alien;
- (3) the deeming of stepparent income to the stepchildren. The income of the stepparent who is not included for SoonerCare in a family case is not deemed according to the stepparent liability. Only the amount of the stepparent's contribution to the individual is considered as income. The amount of contribution is determined according to OAC 317:35-10-26(a)(8), Person acting in the role of a spouse;
- (4) the AFDC lump sum income rule. For purposes of SoonerCare eligibility, a period of ineligibility is not computed;
- (5) mandatory inclusion of minor blood-related siblings or minor dependent children. For SoonerCare purposes, the family has the option to exclude minor blood-related siblings and/or minor dependent children;
- (6) the disregard of one half of the earned income;
- (7) dependent care expense. For SoonerCare only, dependent care expenses may be deducted for an in-home provider who, though not approved, would have qualified had the qualification process been followed;
- (8) AFDC trust rule. The availability of trusts for all SoonerCare only cases is determined according to OAC 317:35-5-41.6;

(9) AFDC Striker rules. Striker status has no bearing on SoonerCare eligibility;

(10) ET&E Sanction rule. The ET&E status has no bearing on SoonerCare eligibility. However, a new SoonerCare application is required.

(b) ~~Effective January-October 1, 2014~~2013. Income is determined in accordance with the Modified Adjusted Gross Income (MAGI) methodology for individuals related to the children and parent and caretaker relatives groups. See Subchapter 6 of this Chapter for MAGI rules.

317:35-5-46. Determination of income and resources for categorical relationship to pregnancy-related services

(a) ~~Prior to January-October 1, 2014~~2013. Countable income for an individual categorically related to pregnancy-related services is determined in the same manner as for an individual categorically related to AFDC. (See OAC 317:35-5-45). Eligibility is based on the income received in the first month of certification with changes in income not considered after certification. Individuals categorically related to pregnancy-related services are excluded from a resource test.

(b) ~~Effective January-October 1, 2014~~2013. Income is determined in accordance with the Modified Adjusted Gross Income (MAGI) methodology for individuals related to the pregnancy group. See Subchapter 6 of this Chapter for MAGI rules. Eligibility is based on the income received in the first month of certification with changes in income not considered after certification, and there is no resource test.

SUBCHAPTER 6. SOONERCARE FOR PREGNANT WOMEN AND FAMILIES WITH CHILDREN

PART 1. GENERAL

317:35-6-1. Scope and applicability

(a) The rules in this Subchapter apply when determining financial eligibility for SoonerCare Health Benefits for groups whose eligibility is determined using Modified Adjusted Gross Income (MAGI). These rules apply to the following groups:

- (1) Children,
 - (2) Grandfathered CHIP children,
 - (3) Pregnant women,
 - (4) Pregnancy-related services under Title XXI,
 - (5) Parents and caretaker relatives,
 - (6) SoonerPlan Family Planning program,
 - (7) Independent foster care adolescents,
 - (8) Inpatients in public psychiatric facilities under 21, and
 - (9) Tuberculosis.
- (b) See 42 CFR 435.603 to determine whether MAGI applies to a group not specifically listed in this Section.
- (c) ~~MAGI rules are not applied to members enrolled in SoonerCare on December 31, 2013 until March 31, 2014, or~~

the date of their next regularly scheduled renewal, whichever is later. MAGI rules take effect on October 1, 2013.

~~(d) For new applicants or individuals who have had a break in eligibility and are not enrolled on December 31, 2013, MAGI rules take effect on January 1, 2014.~~

PART 3. APPLICATION PROCEDURES

317:35-6-15. Application for SoonerCare for Pregnant Women and Families with Children; forms

(a) **Application.** An application for pregnant women and families with children consists of the SoonerCare application. The application form is signed by the individual, parent, spouse, guardian, or someone else acting on the individual's behalf. An individual does not have to have received a medical service nor expect to receive one to be certified for SoonerCare. Effective October 1, 2013, individuals who wish to use a paper application form to apply for coverage under a MAGI eligibility group must submit the federal Single Streamlined Application to apply for SoonerCare.

(1) An application may be made in a variety of locations, for example, a physician's office, a hospital or other medical facility, Health Department, in the county OKDHS office, or online. A face to face interview is not required. Applications are mailed to the OHCA Eligibility Unit. When an individual indicates a need for SoonerCare, the physician or facility may forward an application to the OHCA Eligibility Unit for processing. If the applicant is unable to sign the application, someone acting on his/her behalf may sign the application. Effective October 1, 2013, an application for SoonerCare may also be submitted through the Health Insurance Exchange.

(2) OKDHS form 08MA005E, Notification of Needed Medical Services, is required only for preauthorization of medical services. Although not required, the form may be submitted by the physician or facility as notification of a need for medical services. The form also may be accepted as medical verification of pregnancy.

(3) Receipt of the SoonerCare Application form or OKDHS form 08MA005E constitutes an application for SoonerCare.

(4) If OKDHS form 08MA005E is received and a SoonerCare application cannot be completed, receipt of OKDHS form 08MA005E constitutes an application which must be registered and subsequently denied. The applicant and provider are notified by computer-generated notice.

(5) A hospital providing services may file an electronic Notification of Date of Service (NODOS) form with OHCA up to five days from the date services are rendered. The hospital, applicant, or someone acting on the applicant's behalf has fifteen days from the date the NODOS form was received by OHCA to submit a completed SoonerCare application. Filing a Notification of Date of Service does not guarantee coverage and if a

completed application is not submitted within fifteen days, the NODOS is void.

(b) **Date of application.** When an application is made online, the date of application is the date the application is submitted online. The date of application for a paper application is the date a signed application is received and stamped in by contracted agency partners or OHCA. When a request for SoonerCare is made orally, and that request is followed within 20 days by a signed application, the documented date of the oral request is the date of application. When OKDHS form 08MA005E is received by OKDHS, or received by OHCA and forwarded to OKDHS, the earliest of the date stamps is considered the date of request and should be honored when followed within 20 days by a signed application for SoonerCare.

(c) **Other application and signature requirements.** For additional rules regarding other application and eligibility determination procedures, see Part 7 of Subchapter 5 of this Chapter.

PART 5. DETERMINATION OF ELIGIBILITY FOR SOONERCARE HEALTH BENEFITS FOR PREGNANT WOMEN AND FAMILIES WITH CHILDREN

317:35-6-35. General eligibility consideration

(a) **Prior to ~~January~~ October 1, 2014 ~~2013~~.** Financial eligibility for SoonerCare Health Benefits for Pregnant Women and Families with Children is determined using the rules on income according to the category to which the individual is related. (See Part 5, Subchapter 5 of this Chapter.) Unless questionable, the income of categorically needy individuals who are categorically related to AFDC does not require verification. There is not a resource test for individuals categorically related to AFDC or pregnancy related services.

(b) **Effective ~~January~~ October 1, 2014 ~~2013~~.** Financial eligibility for SoonerCare Health Benefits for MAGI eligibility groups is determined using the MAGI methodology. Unless questionable, the income of individuals who are related to a MAGI eligibility group does not require verification. There is no resource test for individuals related to any of the MAGI groups (see Part 1 of this Subchapter for a list of the MAGI groups).

(c) When medical assistance is requested on behalf of any individual, eligibility is determined for that individual as well as all other individuals in the family unit who meet basic criteria for a SoonerCare eligibility group.

(d) Income is evaluated on a monthly basis for all individuals included in the case for Health Benefits.

317:35-6-36. Financial eligibility of individuals categorically related to AFDC or pregnancy-related services

(a) **Prior to ~~January~~ October 1, 2014 ~~2013~~.** In determining financial eligibility for an individual related to AFDC or pregnancy-related services, the income of the following persons (if living together or if living apart as long as there has been no

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break in the family relationship) are considered. These persons include:

- (1) the individual;
 - (2) the spouse of the individual;
 - (3) the biological or adoptive parent(s) of the individual who is a minor dependent child. For Health Benefits only, income of the stepparent of the minor dependent child is determined according to OAC 317:35-5-45;
 - (4) minor dependent children of the individual if the children are being included in the case for Health Benefits. If the individual is 19 years or older and not pregnant, at least one minor dependent child must be living in the home and included in the case for the individual to be related to AFDC;
 - (5) blood related siblings, of the individual who is a minor child, if they are included in the case for Health Benefits;
 - (6) a caretaker relative and spouse (if any) and minor dependent children when the caretaker relative is to be included for coverage.
- (b) **Prior to JanuaryOctober 1, 20142013.** The family has the option to exclude minor dependent children or blood related siblings [OAC 317:35-6-36(a)(4) and (5)] and their income from the eligibility process. However, for the adult to be eligible, at least one minor child and his/her income must be included in the case. The worker has the responsibility to inform the family of the most advantageous consideration in regard to coverage and income.
- (c) **Effective JanuaryOctober 1, 20142013.** The MAGI methodology is used to determine eligibility for MAGI eligibility groups. See OAC 317:35-6-39 through OAC 317:35-6-54.
- (d) **Effective JanuaryOctober 1, 20142013.** Individuals who are determined to be part of a MAGI household cannot be excluded from the household; likewise, income of individuals determined to be part of a MAGI household cannot be excluded unless the exclusion is expressly required under MAGI rules.
- (e) When determining financial eligibility for an individual related to the children, parent or caretaker relative, or pregnancy groups, consideration is not given to income of any person who is aged, blind or disabled and receives SSI or is determined to be categorically needy.

317:35-6-37. Financial eligibility of categorically needy individuals related to AFDC or pregnancy-related services

Individuals whose income is less than the standards on DHS Appendix C-1 for the applicable eligibility group are financially eligible for SoonerCare.

- (1) **Categorically needy standards/categorically related to pregnancy-related services.** For an individual related to pregnancy-related services to be financially eligible, the countable income must be less than the appropriate standard according to the family size on DHS Appendix C-1. In determining the household size, the pregnant woman and her unborn child(ren) are included.
- (2) **Categorically needy standards/categorically related to children's and parent/caretakers' groups.**

(A) **Categorical relationship.** For the individual related to AFDC to be considered categorically needy, the standards on DHS Appendix C-1 schedules must be used.

(i) **DHS Appendix C-1, Schedule X.** Individuals age 19 years or older, other than pregnant women, are determined categorically needy if countable income is less than the Categorically Needy Standard, according to the family size. ~~Income standards are 73.1% of the AFDC Need Standard.~~

(ii) **DHS Appendix C-1, Schedule I. A.** All individuals under 19 years of age are determined categorically needy if countable income is equal to or less than the Categorically Needy Standard, according to the size of the family. ~~Income standards are 185% of Federal Poverty Level.~~

(B) **Families with children.** Individuals who meet financial eligibility criteria for the children's and parent/caretakers' groups are:

- (i) All persons included in an active TANF case.
- (ii) Individuals related to the children's or parent/caretakers' groups whose countable income is within the current appropriate income standard, but who do not receive TANF assistance.
- (iii) All persons in a TANF case in Work Supplementation status who meet TANF eligibility conditions other than earned income.
- (iv) Those individuals who continue to be eligible for Medicaid in a TANF case after they become ineligible for a TANF payment. These individuals will continue to be considered categorically needy if the TANF case was closed due to child or spousal support, the loss or reduction of earned income exemption by any member of the assistance unit, or the new or increased earnings of the caretaker relative.

PART 7. CERTIFICATION, REDETERMINATION AND NOTIFICATION

317:35-6-60.1. Changes in circumstances

- (a) **Reporting changes.** Members are required to report changes in their circumstances within 10 days of the date the member is aware of the change.
- (b) **Agency action on changes in circumstances.** When the agency responsible for determining eligibility for the member becomes aware of a change in the member's circumstances, the agency will promptly redetermine eligibility for all household members whose eligibility is affected by the change.
- (c) **Changes reported by third parties.** When the agency receives information regarding a change in the member's circumstances from a third party, such as the Oklahoma Employment Security Commission (OESC) or the Social Security Administration (SSA), the agency will determine whether the

information received is reasonably compatible with the most recent information provided by the member.

(1) If the information received is reasonably compatible with the information provided by the member, the agency will use the information provided by the member for determinations and redeterminations of eligibility.

(2) If the information received is not reasonably compatible with the information provided by the member, the agency will determine whether the information received will have an effect on the eligibility of any member of the household.

(A) If the information received has no effect on the eligibility of any member of the household, including the benefit package the member is enrolled in, the agency will take no action.

(B) If the information received has an effect on the eligibility of a member of the household, the agency will request more information from the member, including, but not limited to, an explanation of the discrepancy or verification documenting the correct information regarding the factor of eligibility affected by the information received from a third party.

(C) The agency will give the member proper notice of at least 10 days to respond to the agency's request for information.

(D) If the member does not cooperate in resolving the discrepancy within the timeframe established by the notice, benefits will be terminated.

(d) **Exception January to March, 2014.** During the period January to March, 2014, redeterminations due to changes in circumstances will be processed, but the effective date of any termination action taken as a result of changes in household composition or income for individuals in MAGI eligibility groups will be April 1, 2014, or later.

317:35-6-61. Redetermination of eligibility for persons receiving SoonerCare

(a) A periodic redetermination of eligibility for SoonerCare is required for all members. The redetermination is made prior to the end of the initial certification period and each 12 months thereafter. A deemed newborn is eligible through the last day of the month the newborn child attains the age of one year, without regard to eligibility of other household members in the case.

(b) Effective January 1, 2014, when the agency has sufficient information available electronically to redetermine eligibility, eligibility will be redetermined on that basis and a notice will be sent to the household explaining the action taken by the agency. The member is responsible for notifying the agency if any information used to redetermine eligibility is incorrect. If the agency does not have sufficient information to redetermine eligibility, the agency will send notice to that effect, and the member is responsible for providing the necessary information to redetermine eligibility.

(c) A member's case is closed if he/she does not return the form(s) and any verification necessary for redetermination timely. If the member submits the form(s) and verification necessary for redetermination within 90 days after closure of

the case, benefits are reopened effective the date of the closure, provided the member is eligible and benefits were closed because the redetermination process was not completed.

(d) **Periodic redeterminations scheduled for January to March, 2014 will be rescheduled for April, 2014.**

SUBCHAPTER 7. MEDICAL SERVICES

PART 5. DETERMINATION OF ELIGIBILITY FOR MEDICAL SERVICES

317:35-7-48. Eligibility for the SoonerPlan Family Planning Program

(a) Non-pregnant women and men ages 19 and above are eligible to receive family planning services if they meet all of the conditions of eligibility in paragraphs (1), (2), (3), and (4) of this Subsection. This is regardless of pregnancy or paternity history and includes women who gain eligibility for SoonerCare family planning services due to a pregnancy, but whose eligibility ends 60 days postpartum.

(1) The countable income is at or below the applicable standard on the OKDHS Appendix C-1. Prior to ~~January~~~~October~~ 1, ~~2014~~~~2013~~, the standard deduction for work related expenses such as income tax payments, Social Security taxes, and transportation to and from work, is \$240 per each full-time or part-time employed member of the benefit group. Deductions for work related expenses for self-employed individuals are found at OAC 317:35-10-26(b)(1). Effective ~~January~~~~October~~ 1, ~~2014~~~~2013~~, MAGI financial eligibility rules are used to determine eligibility for SoonerPlan.

(2) Prior to ~~January~~~~October~~ 1, ~~2014~~~~2013~~, in determining financial eligibility for the SoonerPlan Family Planning program the income of the individual and spouse (if any) is considered. The individual has the option to include or exclude minor dependent children and their income in the eligibility process. ~~January~~~~October~~ 1, ~~2014~~~~2013~~, MAGI household composition rules are used to determine eligibility for SoonerPlan.

(3) SoonerPlan members with minor dependent children and a parent absent from the home are required to cooperate with the Oklahoma Department of Human Services, Child Support Services Division (OCSS) in the collection of child support payments. Federal regulations provide a waiver of this requirement when cooperation is not in the best interest of the child.

(4) Individuals eligible for SoonerCare can choose to enroll only in the SoonerPlan Family Planning Program with the option of applying for SoonerCare at any time.

(5) Persons who have Medicare or creditable health insurance coverage are not precluded from applying for the SoonerPlan Family Planning program.

(b) All health insurance is listed on the OKDHS computer system in order for OHCA Third Party Liability Unit to verify insurance coverage. The OHCA is the payer of last resort.

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- (c) Income for the SoonerPlan Family Planning Program does not require verification, unless questionable. If the income is questionable the worker must verify the income.
- (d) There is not an asset test for the SoonerPlan Family Planning Program.

SUBCHAPTER 9. ICF/MR, HCBW/MR, AND INDIVIDUALS AGE 65 OR OLDER IN MENTAL HEALTH HOSPITALS

PART 7. DETERMINATION OF FINANCIAL ELIGIBILITY

317:35-9-67. Determining financial eligibility of categorically needy individuals

Financial eligibility for ICF/MR, HCBW/MR, and individuals age 65 or older in mental health hospitals medical care for categorically needy individuals is determined as follows:

(1) **Prior to ~~January~~October 1, 20142013, financial eligibility/categorically related to AFDC.** In determining income for the individual related to AFDC, all family income is considered. The "family", for purposes of determining need, includes the following persons if living together (or if living apart but there has been no break in the family relationship):

- (A) spouse; and
- (B) parent(s) and minor children of their own. Individuals related to AFDC but not receiving a money payment are not entitled to one-half income disregard following the earned income deduction.

(i) For adults, to be categorically needy, the net income must be less than the categorically needy standard as shown on the OKDHS Appendix C-1, Schedule X.

(ii) For individuals under 19, to be categorically needy, the net income must be equal to or less than the categorically needy standard as shown on the OKDHS Appendix C-1, Schedule I. A.

(2) **Effective ~~January~~October 1, 20142013, financial eligibility in a Modified Adjusted Gross Income (MAGI) eligibility group.** In determining financial eligibility for an individual related to a group for whom the MAGI methodology is used, rules in Subchapter 6 of this Chapter are followed.

(3) **Financial eligibility/categorically related to ABD.** In determining income and resources for the individual related to ABD, the "family" includes the individual and spouse, if any. To be categorically needy, the individual's countable income must be less than the categorically needy standard as shown on the OKDHS Appendix C-1, Schedule VI. If an individual and spouse cease to live together for reasons other than institutionalization, income and resources are considered available to each other through the month in which they are separated. Mutual consideration ceases with the month after the month in which the separation occurs. Any amounts which are

actually contributed to the spouse after the mutual consideration has ended are considered. If the individual and spouse cease to live together because of the individual entering an ICF/MR, see OAC 317:35-9-68 (a)(3) to determine financial eligibility.

(A) The categorically needy standard on OKDHS Appendix C-1, Schedule VI, is applicable for individuals related to ABD. If the individual is in an ICF/MR and has received services for 30 days or longer, the categorically needy standard in OKDHS Appendix C-1, Schedule VIII. B., is used. If the individual leaves the facility prior to the 30 days, or does not require services past the 30 days, the categorically needy standard on OKDHS Appendix C-1, Schedule VI, is used. The rules on determination of income and resources are applicable only when an individual has entered an ICF/MR and is likely to remain under care for 30 consecutive days. The 30-day requirement is considered to have been met even if it is interrupted by a hospital stay or the individual is deceased before the 30-day period ends [Refer to OAC 317:35-9-68 (a)(3)(B)(x)]. An individual who is a patient in an extended care facility may have SSI continued for a three month period if he/she meets conditions described in Subchapter 5 of this Chapter. The continuation of the payments is intended for use of the member and does not affect the vendor payment. If the institutional stay exceeds the three month period, SSI will make the appropriate change.

(B) In determining eligibility for HCBW/MR services, refer to OAC 317:35-9-68(b).

(C) In determining eligibility for individuals age 65 or older in mental health hospitals, refer to OAC 317:35-9-68(c).

(4) **Transfer of capital resources on or before August 10, 1993.** Individuals who have transferred capital resources on or before August 10, 1993 and are applying for or receiving NF, ICF/MR or HCBW/MR services are subject to penalty if the individual, the individual's spouse, the guardian, or legal representative of the individual or individual's spouse, disposes of resources for less than fair market value during the 30 months immediately prior to eligibility for SoonerCare if the individual is eligible at institutionalization. If the individual is not eligible for SoonerCare at institutionalization, the individual is subject to penalty if a resource was transferred during the 30 months immediately prior to the date of application for SoonerCare. Any subsequent transfer is also subject to this rule. When there have been multiple transfers of resources without commensurate return, all transferred resources are added together to determine the penalty period. The penalty consists of a period of ineligibility (whole number of months) determined by dividing the total uncompensated value of the resource by the average monthly cost to a private patient in a nursing facility in Oklahoma. The penalty period begins with the month the resource or resources were first transferred and cannot exceed 30 months. Uncompensated value is defined as

the difference between the equity value and the amount received for the resource.

- (A) However, the penalty would not apply if:
- (i) The transfer was prior to July 1, 1988.
 - (ii) The title to the individual's home was transferred to:
 - (I) the spouse;
 - (II) the individual's child under age 21 or who is blind or totally disabled;
 - (III) a sibling who has equity interest in the home and resided in the home for at least one year prior to the individual's admission to the nursing facility; or
 - (IV) the individual's son or daughter who resided in the home and provided care for at least two years prior to the individual's admission to the nursing facility.
 - (iii) The individual can show satisfactorily that the intent was to dispose of resources at fair market value or that the transfer was for a purpose other than eligibility.
 - (iv) The transfer was to the community spouse or to another person for the sole benefit of the community spouse in an amount equal to the community spouse's resource allowance.
 - (v) The resource was transferred to the individual's child who is under 21 or who is blind or totally disabled.
 - (vi) The resource was transferred to the spouse (either community or institutionalized) or to another person for the sole benefit of the spouse if the resources are not subsequently transferred to still another person for less than fair market value.
 - (vii) The denial would result in undue hardship. Such determination should be referred to OKDHS State Office, FSSD, Health Related and Medical Services, for a decision.
- (B) The individual is advised by a written notice of a period of ineligibility due to transfer of assets. The notice explains the period of ineligibility for payment of NF services and the continuance of eligibility for other SoonerCare services.
- (C) The penalty period can be ended by either the resource being restored or commensurate return being made to the individual. The cost of care during the penalty period cannot be used to shorten or end the penalty period.
- (D) Once the restoration or commensurate return is made, eligibility is redetermined considering the value of the restored resource or the amount of commensurate return.
- (E) The restoration or commensurate return will not entitle the member to benefits for the period of time that the resource remained transferred. An applicant cannot be certified for NF, HCBW/MR, or ADvantage waiver services for a period of resource ineligibility.

(5) **Transfer of assets on or after August 11, 1993 but before February 8, 2006.** An institutionalized individual, an institutionalized individual's spouse, the guardian or legal representative of the individual or individual's spouse who disposes of assets on or after August 11, 1993 but before February 8, 2006 for less than fair market value on or after the look-back date specified in (A) of this paragraph subjects the individual to a penalty period for the disposal of such assets.

(A) For an institutionalized individual, the look-back date is 36 months before the first day the individual is both institutionalized and has applied for medical assistance. However, in the case of payments from a trust or portions of a trust that are treated as transfers of assets, the look-back date is 60 months.

(B) For purposes of this paragraph, an "institutionalized" individual is one who is residing in an ICF/MR or receiving HCBW/MR services.

(C) The penalty period begins the first day of the first month during which assets have been transferred and which does not occur in any other period of ineligibility due to an asset transfer. When there have been multiple transfers, all transferred assets are added together to determine the penalty.

(D) The penalty period consists of a period of ineligibility (whole number of months dropping any leftover portion) determined by dividing the total uncompensated value of the asset by the average monthly cost to a private patient in a nursing facility in Oklahoma. There is no limit to the length of the penalty period for these transfers. Uncompensated value is defined as the difference between the fair market value at the time of transfer less encumbrances and the amount received for the resource.

(E) Assets are defined as all income and resources of the individual and the individual's spouse, including any income or resources which the individual or such individual's spouse is entitled to but does not receive because of action:

- (i) by the individual or such individual's spouse;
- (ii) by a person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or such individual's spouse; or
- (iii) by any person, including any court or administrative body acting at the direction or upon the request of the individual or such individual's spouse.

(F) A penalty would not apply if:

- (i) the title to the individual's home was transferred to:
 - (I) the spouse;
 - (II) the individual's child under age 21 or who is blind or totally disabled as determined by Social Security;
 - (III) a sibling who has equity interest in the home and resided in the home for at least one

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- year prior to the institutionalization of the individual; or
- (IV) the individual's son or daughter who resided in the home and provided care for at least two years immediately prior to the individual's institutionalization;
- (ii) the individual can show satisfactorily that the intent was to dispose of assets at fair market value or that the transfer was exclusively for a purpose other than eligibility. It is presumed that any transfer of assets made for less than fair market value was made in order to qualify the individual for SoonerCare. In order to rebut this presumption, the individual must present compelling evidence that a transfer was made for reasons other than to qualify for SoonerCare. It is not sufficient for an individual to claim that assets were transferred solely for the purposes of allowing another to have them with ostensibly no thought of SoonerCare if the individual qualifies for SoonerCare as a result of the transfer;
- (iii) the transfer was to the community spouse or to another person for the sole benefit of the community spouse in an amount equal to the community spouse's asset allowance;
- (iv) the asset was transferred to the individual's child who is blind or totally disabled as determined by Social Security. The transfer may be to a trust established for the benefit of the individual's child;
- (v) the asset was transferred to or from the spouse (either community or institutionalized) or to another person for the sole benefit of the spouse if the assets are not subsequently transferred to still another person for less than fair market value;
- (vi) the asset is transferred to a trust established solely for the benefit of a disabled individual under the age of 65; or
- (vii) the denial would result in undue hardship. Such determination should be referred to OKDHS State Office for a decision.
- (G) The individual is advised by a written notice of a period of ineligibility due to transfer of assets. The notice explains the period of ineligibility for payment of ICF/MR or HCBW/MR services and the continuance of eligibility for other SoonerCare services.
- (H) The penalty period can be ended by either all assets being restored or commensurate return being made to the individual.
- (I) Once the restoration or commensurate return is made, eligibility is redetermined considering the value of the restored asset or the amount of commensurate return.
- (J) The restoration or commensurate return will not entitle the member to benefits for the period of time that the asset remained transferred. An applicant cannot be certified for NF, ICF/MR, HCBW/MR, or ADvantage waiver services for a period of asset ineligibility.
- (K) Assets which are held by an individual with another person or persons, whether held in joint tenancy or tenancy in common or similar arrangement, and the individual's ownership or control of the asset is reduced or eliminated is considered a transfer.
- (L) When a transfer of assets by the spouse of an individual results in a period of ineligibility and the spouse who made such transfer subsequently becomes institutionalized, the period of ineligibility will be apportioned between the two institutionalized spouses.
- (6) **Transfer of assets on or after February 8, 2006.** An institutionalized individual, an institutionalized individual's spouse, the guardian or legal representative of the individual or individual's spouse who disposes of assets on or after February 8, 2006 for less than fair market value on or after the look-back date specified in (A) of this paragraph subjects the individual to a penalty period for the disposal of such assets.
- (A) For an institutionalized individual, the look-back date is 60 months before the first day the individual is both institutionalized and has applied for medical assistance. However, individuals that have purchased an Oklahoma Long-Term Care Partnership Program approved policy may be completely or partially exempted from this Section depending on the monetary extent of the insurance benefits paid.
- (B) For purposes of this paragraph, an "institutionalized" individual is one who is residing in an ICF/MR or receiving HCBW/MR services.
- (C) The penalty period will begin with the later of:
- (i) the first day of a month during which assets have been transferred for less than fair market value; or
- (ii) the date on which the individual is:
- (I) eligible for medical assistance; and
- (II) receiving institutional level of care services that, were it not for the imposition of the penalty period, would be covered by SoonerCare.
- (D) The penalty period:
- (i) cannot begin until the expiration of any existing period of ineligibility;
- (ii) will not be interrupted or temporarily suspended once it is imposed;
- (iii) when there have been multiple transfers, all transferred assets are added together to determine the penalty.
- (E) The penalty period consists of a period of ineligibility determined by dividing the total uncompensated value of the asset by the average monthly cost to a private patient in a nursing facility in Oklahoma shown on OKDHS Appendix C-1. In this calculation, the penalty must include a partial month disqualification based upon the relationship between that fractional amount and the average monthly cost to a private patient in a nursing facility in Oklahoma. There is no limit to the length of the penalty period

for these transfers. Uncompensated value is defined as the difference between the fair market value at the time of transfer less encumbrances and the amount received for the resource.

(F) Assets are defined as all income and resources of the individual and the individual's spouse, including any income or resources which the individual or such individual's spouse is entitled to but does not receive because of action:

- (i) by the individual or such individual's spouse;
- (ii) by a person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or such individual's spouse; or
- (iii) by any person, including any court or administrative body acting at the direction or upon the request of the individual or such individual's spouse.

(G) Special Situations.

(i) Separate Maintenance or Divorce.

(I) There shall be presumed to be a transfer of assets if an applicant or member receives less than half of the couple's resources pursuant to a Decree of Separate Maintenance or a Decree of Divorce.

(II) There shall be presumed to be a transfer of assets if the income is reduced to an amount lower than the individual's own income plus half of the joint income. The transfer penalty shall be calculated monthly.

(III) Assets which were exempt lose the exempt character when not retained by the applicant or member in the divorce or separate maintenance. These assets, if received by the other spouse, are counted when determining the penalty.

(IV) The applicant or member may rebut the presumption of transfer by showing compelling evidence that the uneven division of income or resources was the result of factors unrelated to SoonerCare eligibility.

(ii) Inheritance from a spouse.

(I) Oklahoma law provides that a surviving spouse is entitled to a minimum portion of a deceased spouse's probate estate. The amount depends on several factors.

(II) It is considered a transfer if the deceased spouse's will places all, or some, of the statutory share the applicant or member is entitled to receive in a trust which the applicant or member does not have unfettered access to or leaves less than the statutory amount to the applicant or member, who does not then elect to receive the statutory share in probate proceedings.

(H) A penalty would not apply if:

(i) the title to the individual's home was transferred to:

- (I) the spouse; or
- (II) the individual's child under age 21 or who is blind or totally disabled as determined by Social Security; or
- (III) a sibling who has equity interest in the home and resided in the home for at least one year immediately prior to the institutionalization of the individual; or
- (IV) the individual's son or daughter who resided in the home and provided care for at least two years immediately prior to the individual's institutionalization.

(ii) the individual can show satisfactorily that the intent was to dispose of assets at fair market value or that the transfer was exclusively for a purpose other than eligibility. It is presumed that any transfer of assets made for less than fair market value was made in order to qualify the individual for SoonerCare. In order to rebut this presumption, the individual must present compelling evidence that a transfer was made for reasons other than to qualify for SoonerCare. It is not sufficient for an individual to claim that assets were transferred solely for the purpose of allowing another to have them with ostensibly no thought of SoonerCare if the individual qualifies for SoonerCare as a result of the transfer.

(iii) the transfer was to the community spouse or to another person for the sole benefit of the community spouse in an amount equal to the community spouse's asset allowance. "Sole benefit" means that the amount transferred will be used for the benefit of the community spouse during his or her expected life.

(iv) the asset was transferred to the individual's child who is blind or totally disabled as determined by Social Security. The transfer may be to a trust established for the benefit of the individual's child.

(v) the asset was transferred to or from the spouse (either community or institutionalized) or to another person for the sole benefit of the spouse if the assets are not subsequently transferred to still another person for less than fair market value. "Sole benefit" means that the amount transferred will be used for the benefit of the spouse (either community or institutionalized) during his or her expected life.

(vi) the asset is transferred to a trust established solely for the benefit of a disabled individual under the age of 65.

(vii) the denial would result in undue hardship. Undue hardship exists when application of a transfer of assets penalty would deprive the individual of medical care such that the individual's health or life would be endangered; or of food, clothing, shelter, or other necessities of life.

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(I) An undue hardship does not exist if the individual willingly transferred assets for the purpose of qualifying for SoonerCare services through the use of the undue hardship exemption.

(II) Such determination should be referred to OKDHS State Office for a decision.

(III) If the undue hardship exists because the applicant was exploited, legal action must be pursued to return the transferred assets to the applicant before a hardship waiver will be granted. Pursuing legal action means an APS referral has been made to the district attorney's office or a lawsuit has been filed and is being pursued against the perpetrator.

(I) The individual is advised by a written notice of a period of ineligibility due to transfer of assets, a timely process for determining whether an undue hardship waiver will be granted and a process for an adverse determination appeal. The notice explains the period of ineligibility for payment of ICF/MR or HCBW/MR services and the continuance of eligibility for other SoonerCare services.

(J) The penalty period can be ended by either all assets being restored or commensurate return being made to the individual.

(K) Once the restoration or commensurate return is made, eligibility is redetermined considering the value of the restored asset or the amount of commensurate return.

(L) The restoration or commensurate return will not entitle the member to benefits for the period of time that the asset remained transferred. An applicant cannot be certified for nursing care services or HCBW for a period of asset ineligibility.

(M) Assets which are held by an individual with another person or persons, whether held in joint tenancy or tenancy in common or similar arrangement, and the individual's ownership or control of the asset is reduced or eliminated is considered a transfer. The exception to this rule is if ownership of a joint account is divided according to the amount contributed by each owner.

(i) Documentation must be provided to show each co-owner's contribution;

(ii) The funds contributed by the applicant or SoonerCare member end up in an account owned solely by the applicant or member.

(N) When a transfer of assets by the spouse of an individual results in a period of ineligibility and the spouse who made such transfer subsequently becomes institutionalized, the period of ineligibility will be apportioned between the two institutionalized spouses.

(7) **Commensurate return.** Commensurate return for purposes of this Section is defined as actual money payment or documentation of money spent on the member's behalf; i.e., property taxes, medical debts, nursing

care expenses, etc., corresponding to the market value of the transferred property. The definition does not include personal services, labor or provision of rent-free shelter. It also does not include a monetary value assigned and projected for future payment either by cash or provision of services. Any transfer of property within the five years prior to application or during receipt of assistance must be analyzed in regard to commensurate return as well as determination of intent.

SUBCHAPTER 10. OTHER ELIGIBILITY FACTORS FOR FAMILIES WITH CHILDREN AND PREGNANT WOMEN

PART 3. RESOURCES

317:35-10-10. Capital resources

Capital resources are disregarded for individuals related to the children, parent and caretaker relative, former foster care children, SoonerPlan, or pregnancy eligibility groups, including pregnancies covered under Title XXI. Prior to ~~January~~October 1, 2014~~2013~~, the countable income generated from any resource is considered in accordance with Part 5 of this Subchapter. Effective ~~January~~October 1, 2014~~2013~~, countable income generated from any resource is considered in accordance with Part 6 of Subchapter 6 of this Chapter.

PART 5. INCOME

317:35-10-25. Income defined

Prior to ~~January~~October 1, 2014~~2013~~, income is defined as that gain, payment or proceed from labor, business, property, retirement and other benefits. Effective ~~January~~October 1, 2014~~2013~~, for MAGI eligibility groups as defined in OAC 317:35-6-1, income is defined by the Internal Revenue Code.

317:35-10-26. Income

(a) General provisions regarding income.

(1) The income of categorically needy individuals who are related to the children, parent or caretaker relative, SoonerPlan, or Title XIX and XXI pregnancy eligibility groups does not require verification, unless questionable. If the income information is questionable, it must be verified. If there appears to be a conflict in the information provided, the worker must investigate the situation to determine if income verification is necessary.

(2) All available income, except that required to be disregarded by law or OHCA's policy, is taken into consideration in determining need. Income is considered available both when actually available and when the applicant or member has a legal interest in a liquidated sum and has the legal ability to make such sum available for support and maintenance. When an individual's income is reduced due to recoupment of an overpayment or garnishment, the

gross amount before the recoupment or garnishment is counted as income. The member is responsible for reporting all income, the source, amount and how often received.

(A) Income received on behalf of a member of the benefit group by another individual such as, but not limited to, a guardian or conservator, is considered available to the benefit group.

(B) Money received and used for the care and maintenance of a third party who is not included in the benefit group is not counted as income if it can be identified and verified as intended for third party use.

(C) If it appears any member of the benefit group or an individual whose income is considered when determining eligibility is eligible for any type of income or benefits, the benefit group must be notified in writing by the Oklahoma Health Care Authority (OHCA). The notice must contain the information that failure to apply for and take all appropriate steps to obtain such benefits within 10 days from the date of the notice will result in a determination of ineligibility. An application for Supplemental Security Income (SSI) is not required.

(D) If the member and spouse are living together or they are living apart but there has not been a clear break in the family relationship, income received by either spouse and income received jointly is considered as family income. Income cannot be diverted to a household member who is not included in the household size for health benefits. Consideration is not given to a SSI recipient's income in computing eligibility for the AFDC or Pregnancy related unit. Effective ~~January~~October 1, ~~2014~~2013, the MAGI methodology rules determine whose income is considered in a particular household for MAGI eligibility groups as defined in OAC 317:35-6-1.

(E) Income which can reasonably be anticipated to be received is considered to be available for the month its receipt is anticipated.

(F) Income produced from resources must be considered as unearned income.

(3) Income that must be verified is verified by the best available information such as pay stubs presented by the member or an interview with the employer. If OHCA is unable to verify income through the Employment Securities Commission, then pay stubs may only be used for verification if they have the member's name and/or social security number indicating that the pay stubs are in fact the member's wages. The stubs should also include the date(s) of the pay period and the amount of income before deductions. If this information is not included, employer verification is required. The worker verifies medical insurance which may be available at the same time that income is verified. When a member of the benefit group accepts employment and has not received any wages, verification (if necessary) of the amount of income to be considered and the anticipated date of receipt must be obtained from the employer and provided to OHCA within 10 days. Income which is expected to be received during

a month is considered available to the benefit group and is counted in determining eligibility for the month of receipt.

(4) Monies received in a lump sum from any source are considered income in the month received. Changing a resource from one form to another, such as converting personal property to cash, is not considered a lump sum payment. Exception: lump sum payments used to establish dedicated bank accounts by representative payees in order to receive and maintain retroactive SSI benefits for disabled/blind children under age 18 are excluded as income. The interest income generated from dedicated bank accounts is also excluded.

(A) Prior to ~~January~~October 1, ~~2014~~2013, a non-recurring lump sum payment considered as income includes payments based on accumulation of income and payments which may be considered windfall in nature and may include but are not limited to TANF grant diversion, VA or Social Security lump sum payments, inheritance, gifts, worker's compensation payments, cash winnings, personal injury awards, etc. Retirement benefits received in a lump-sum are considered as unearned income. A non-recurring lump sum SSI retroactive payment, made to a member of the children, parent or caretaker relative, or pregnancy groups who is not currently eligible for SSI, is not counted as income. Effective ~~January~~October 1, ~~2014~~2013, whether a source of income is countable for MAGI eligibility groups is determined in accordance with Part 6 of Subchapter 6 of this Chapter.

(B) Prior to ~~January~~October 1, ~~2014~~2013, lump sum payments (minus allowable deductions related to establishing the lump sum payment) which are received by AFDC/Pregnancy related individuals or applicants are considered as income. Allowable deductions are expenses earmarked in the settlement or award to be used for a specific purpose which may include, but are not limited to, attorney's fees and court costs that are identified in the lump sum settlement, medical or funeral expenses for the immediate family, etc. "Earmarked" means that such expense is specifically set forth in the settlement or award. Effective ~~January~~October 1, ~~2014~~2013, whether a source of income is countable is determined in accordance with Part 6 of Subchapter 6 of this Chapter.

(C) When a lump sum is received by a stepparent not included in the household size, only the stepparent's contribution is considered in accordance with the stepparent's liability policy. Effective ~~January~~October 1, ~~2014~~2013, income received by a stepparent is considered in accordance with MAGI household and income counting rules.

(D) When a third party reveals that a lump sum payment has been received or is expected to be received by the applicant or member, adverse action notification is given or mailed to the applicant/member and appropriate action taken.

(E) Recurring lump sum income received from any source for a period covering more than one month,

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that is received in a lump sum recurrently (such as annual rentals from surface or minerals, Windfall Profits tax refund, etc.) is prorated over a period of time it is intended to cover, beginning with the month of receipt of a lump sum payment.

(F) Net income from oil and gas production (gross minus production taxes withheld), received in varying amounts on a regular or irregular basis for the past six months, will be averaged and considered as income for the next six months. In instances where an applicant or a member receives new income from oil and gas production and verification for the past six months is not available, the worker accepts the available verification and averages over the period of time intended to cover. Net income may be verified by seeing the individual's production check stub, or by contacting the oil and gas company. Effective ~~January~~October 1, 2014~~2013~~, whether a source of income is countable is determined in accordance with Part 6 of Subchapter 6 of this Chapter.

(5) Income that is based on the number of hours worked, as opposed to income based on regular monthly wages, must be computed as irregular income. The income received irregularly or in varying amounts will be averaged using the past two months to establish the amount to be anticipated and considered for prospective budgeting.

(6) Prior to ~~January~~October 1, 2014~~2013~~, a caretaker relative can only be included in the benefit group when the biological or adoptive parent is not in the home. A stepparent can be included when the biological or adoptive parent is either incapacitated or not in the home. Effective ~~January~~October 1, 2014~~2013~~, MAGI household rules are used to determine whether a caretaker relative or stepparent is included in a household.

(A) Prior to ~~January~~October 1, 2014~~2013~~, consideration is not given to the income of the caretaker relative or the income of his or her spouse in determining the eligibility of the children. However, if that person is the stepparent, the policy on stepparent liability is applicable. Effective ~~January~~October 1, 2014~~2013~~, MAGI household and income counting rules are used to determine whether a caretaker relative and his/her spouse or a stepparent are included in the household and whether their income is considered for the children.

(B) Prior to ~~January~~October 1, 2014~~2013~~, if a caretaker relative is married and living with the spouse who is an SSI or SSP recipient, the spouse or spouse's income is not considered in determining the eligibility of the caretaker relative. The income of the caretaker relative and the spouse who is not an SSI or SSP recipient must be considered. Only one caretaker relative is eligible to be included in any one month. Effective ~~January~~October 1, 2014~~2013~~, MAGI household and income counting rules are used to determine whose income is considered and whether that income is counted. If an individual is eligible in the parent

or caretaker relative group, his/her spouse, if living with him/her, is also related to the parent or caretaker relative group.

(7) Prior to ~~January~~October 1, 2014~~2013~~, a stepparent can be included when the biological or adoptive parent is either incapacitated or not in the home. The income of the stepparent is counted if the stepparent's needs are being included. Effective ~~January~~October 1, 2014~~2013~~, a stepparent, if living with the parent or caretaker relative, can also be related to the parent or caretaker relative group, regardless of whether the parent is incapacitated or not in the home.

(8) Prior to ~~January~~October 1, 2014~~2013~~, when there is a stepparent or person living in the home with the biological or adoptive parent who is not a spouse by legal marriage to or common-law relationship with the own parent, the worker determines the amount of income that will be made available to meet the needs of the child(ren) and the parent. Only contributions made in cash directly to the benefit group can be counted as income. In-kind contributions are disregarded as income. When the individual and the member state the individual does not make a cash contribution, further exploration is necessary. This statement can only be accepted after clarifying that the individual's contributions are only in-kind. Effective ~~January~~October 1, 2014~~2013~~, MAGI household and income counting rules are used to determine whose income is considered and whether that income is counted.

(b) **Earned income.** The term "earned income" refers to monies earned by an individual through the receipt of wages, salary, commission or profit from activities in which the individual is engaged as self-employed or as an employee. Prior to ~~January~~October 1, 2014~~2013~~, payments made for accumulated annual leave/vacation leave, sick leave or as severance pay are considered as earned income whether paid during employment or at termination of employment. Temporary disability insurance payment(s) and temporary worker's compensation payments are considered as earned income if payments are employer funded and the individual remains employed. Income received as a one-time nonrecurring payment is considered as a lump sum payment. Earned income includes in-kind benefits received by an employee from an employer in lieu of wages or in conjunction with wages. An exchange of labor or services, e.g., barter, is considered as an in-kind benefit. Such benefits received in-kind are considered as earned income only when the employee/employer relationship has been established. Income from self-employment also includes in-kind benefits for a work activity or service for which the self-employed person ordinarily receives payment in the business enterprise. Medical insurance secured through the employer, whether purchased or as a benefit, is not considered in-kind income. Gross earned income is used to determine eligibility. Gross earned income is defined as the wage prior to payroll deductions and/or withholdings. Effective ~~January~~October 1, 2014~~2013~~, whether income is countable for MAGI eligibility groups is determined using MAGI income counting rules in Part 6 of Subchapter 6 of this Chapter.

(1) **Earned income from self-employment prior to ~~January~~October 1, 2014~~2013~~.** If the income results from the individual's activities primarily as a result of the individual's own labor from the operation of a business enterprise, the "earned income" is the total profit after deducting the business expenses (cost of the production). Money from the sale of whole blood or blood plasma is also considered as self-employment income subject to necessary business expense and appropriate earned income exemptions.

(A) Allowable costs of producing self-employment income include, but are not limited to, the identifiable cost of labor, stock, raw material, seed and fertilizer, interest payments to purchase income-producing property, insurance premiums, and taxes paid on income-producing property.

(i) The federal or state income tax form for the most recent year is used for calculating the income only if it is representative of the individual's current situation. The individual's business records beginning the month income became representative of the individual's current situation is used if the income tax information does not represent the individual's current situation.

(ii) If the self-employment enterprise has been in existence for less than a year, the income is averaged over the period of time the business has been in operation to establish the monthly income amount.

(iii) Self-employment income which represents an annual support is prorated over a 12-month period, even if the income is received in a short period of time. For example, self-employment income received by crop farmers is averaged over a 12-month period if the income represents the farmer's annual support.

(B) **Items not considered.** The following items are not considered as a cost of producing self-employed income:

(i) The purchase price and/or payments on the principal of loans for capital assets, equipment, machinery, and other durable goods;

(ii) Net losses from previous periods;

(iii) Depreciation of capital assets, equipment, machinery, and other durable goods; and

(iv) Federal, state and local income taxes, FICA, money set aside for retirement purposes, and other work related personal expenses, such as meals and necessary transportation. These expenses are accounted for by the work related expense deduction.

(C) **Room and/or board.** Earned income from a room rented in the home is determined by considering 25% of the gross amount received as a business expense. If the earned income includes payment for room and board, 50% of the gross amount received is considered as a business expense.

(D) **Rental property.** Income from rental property is to be considered income from self employment if none of the activities associated with renting the property is conducted by an outside-person or agency.

(2) **Earned income from self-employment effective ~~January~~October 1, 2014~~2013~~.** For MAGI eligibility groups, the calculation of countable self-employment income is determined in accordance with MAGI income counting rules in Part 6 of Subchapter 6 of this Chapter.

(3) **Earned income from wages, salary or commission.** Prior to ~~January~~October 1, 2014~~2013~~, if the income is from wages, salary or commission, the "earned income" is the gross income prior to payroll deductions and/or withholdings. Income from the Older American Community Service Employment Act (Title V), including AARP and Green Thumb organizations as well as employment positions allocated at the discretion of the Governor of Oklahoma, is counted as any other earned income. Effective ~~January~~October 1, 2014~~2013~~, countable income for MAGI eligibility groups is determined in accordance with MAGI income counting rules in Part 6 of Subchapter 6 of this Chapter.

(4) **Earned income from work and training programs.** Prior to ~~January~~October 1, 2014~~2013~~, earned income from work and training programs such as the Job Training Partnership Act (JTPA) received by an adult as wages is considered as any other earned income. Also, JTPA earned income of a dependent child is considered when received in excess of six months in any calendar year. Effective ~~January~~October 1, 2014~~2013~~, countable income for MAGI eligibility groups is determined in accordance with MAGI income counting rules in Part 6 of Subchapter 6 of this Chapter.

(5) **Individual earned income exemptions prior to ~~January~~October 1, 2014~~2013~~.** Exemptions from each individual's earned income include a monthly standard work related expense and child care expenses the individual is responsible for paying. Expenses cannot be exempt if paid through state or federal funds or the care is not in a licensed facility or home. Exempt income is that income which by law may not be considered in determining need.

(A) **Work related expenses.** The standard deduction for work related expenses such as income tax payments, Social Security taxes, and transportation to and from work, is \$240 per each full-time or part-time employed member of the benefit group.

(B) **Child care expenses.** Disregard of child care expense is applied after all other income disregards.

- (i) Child care expense may be deducted when:
- (I) suitable care for a child included in the benefit group is not available from responsible persons living in the home or through other alternate sources; and
 - (II) the employed member whose income is considered must purchase care.

(ii) The actual amount paid for child care per month, up to a maximum of \$200 for a child under

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the age of two or \$175 for a child age two or older may be deducted.

(iii) Oklahoma law requires all child care centers and homes be properly approved or licensed; therefore, child care expenses can only be deducted if the child is in a properly licensed facility or receiving care from an approved in-home provider.

(iv) Child care provided by another person in the household who is not a member of the benefit group may be considered as child care expenses as long as the home meets applicable standards of State, local or Tribal law.

(v) Documentation is made of the child care arrangement indicating the name of the child care facility or the name of the in-home provider, and the documentation used to verify the actual payment of child care per month.

(6) **No individual earned income exemptions effective ~~January~~October 1, 20142013.** No earned income exemptions are subtracted to determine countable income for MAGI eligibility groups. The only deduction applied to determine net countable income under the MAGI methodology is the deduction of 5% of the FPL for the individual's household size as defined in OAC 317:35-6-39.

(7) **Formula for determining the individual's net earned income prior to ~~January~~October 1, 20142013.** Formulas used to determine net earned income to be considered are:

(A) **Net earned income from employment other than self-employment.** Gross Income minus work related expense minus child care expense equals net income.

(B) **Net earned income from self-employment.** Gross income minus allowable business expenses minus work related expense and child care expense equals net income.

(8) **Formula for determining the individual's net earned income effective ~~January~~October 1, 20142013 for MAGI eligibility groups.** To determine net income, see MAGI rules in OAC 317:35-6-39.

(c) **Unearned income prior to ~~January~~October 1, 20142013.**

(1) **Capital investments.** Proceeds, i.e., interest or dividends from capital investments, such as savings accounts, bonds (other than U.S. Savings Bonds, Series A through EE), notes, mortgages, etc., received constitute income.

(2) **Life estate and homestead rights.** Income from life estate or homestead rights, constitute income after deducting actual business expenses.

(3) **Minerals.** If the member owns mineral rights, only actual income from minerals, delayed rentals, or production is considered. Evidence is obtained from documents which the member has in hand. When the member has no documentary evidence of the amount of income, the evidence, if necessary, is secured from the firm or person who is making the payment.

(4) **Contributions.** Monetary contributions are considered as income except in instances where the contribution is not made directly to the member.

(5) **Retirement and disability benefits.** Income received monthly from retirement and disability benefits are considered as unearned income. Information as to receipt and amount of OASDI benefits is obtained, if necessary, from BENDEX, the member's award letter, or verification from SSA. Retirement benefits received as a lump sum payment at termination of employment are considered as income. Supplemental Security Income (SSI) does not fall under these types of benefits.

(6) **Unemployment benefits.** Unemployment benefits are considered as unearned income.

(7) **Military benefits.** Life insurance, pensions, compensation, servicemen dependents' allowances and the like, are all sources of income which the member and/or dependents may be eligible to receive. In each case under consideration, information is obtained as to whether the member's son, daughter, husband or parent, has been in any military service. Clearance is made with the proper veterans' agency, both state and federal, to determine whether the benefits are available.

(8) **Casual and inconsequential gifts.** Monetary gifts which do not realistically represent income to meet living expenses, e.g., Christmas, graduation and birthday gifts, not to exceed \$30 per calendar quarter for each individual, are disregarded as income. The amount of the gifts are disregarded as received during the quarter until the aggregate amount has reached \$30. At that time the portion exceeding \$30 is counted as lump sum income. If the amount of a single gift exceeds \$30, it is not inconsequential and the total amount is therefore counted. If the member claims that the gift is intended for more than one person in the family unit, it is allowed to be divided. Gifts between members of the family unit are not counted.

(9) **Grants.** Grants which are not based on financial need are considered income.

(d) **Unearned income effective ~~January~~October 1, 20142013.** Countable earned and unearned income for MAGI eligibility groups is determined in accordance with MAGI income counting rules in Part 6 of Subchapter 6 of this Chapter.

(e) **Income disregards prior to ~~January~~October 1, 20142013.** Income that is disregarded in determining eligibility includes:

(1) Food Stamp benefits;

(2) Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(3) Education Grants (including work study), scholarships, etc., that are contingent upon the student regularly attending school. The student's classification (graduate or undergraduate) is not a factor;

(4) Loans (regardless of use) if a bona fide debt or obligation to pay can be established. Criteria to establish a loan as bona fide includes an acknowledgment of obligation to repay or evidence that the loan was from an individual or financial institution in the loan business. If

the loan was 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. If the loan agreement is not written, OKDHS Form 08AD103E, Loan Verification, should be completed by the borrower attesting that the loan is bona fide and signed by the lender verifying the date and amount of the loan. When copies of written agreements or OKDHS Form 08AD103E are not available, detailed case documentation must include information that the loan is bona fide and how the debt amount and date of receipt was verified;

(5) Indian payments (including judgment funds or funds held in trust) which are distributed by the Secretary of the Interior (BIA) or distributed by the tribe subject to approval by the Secretary of the Interior. Also, 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 business investments, etc. 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;

(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 under Title III of the Older Americans Act of 1965 amended by PL 100-175 to become the Older Americans Act amendments of 1987;

(8) Unearned income received by a child, such as a needs based payment, cash assistance, compensation in lieu of wages, allowance, etc., from a program funded by the Job Training and Partnership Act (JTPA) including Job Corps income. Also, JTPA 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 aids, 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 (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) If an adult or child from the family group is living in the home and is receiving SSI, his/her individual income is considered by the Social Security Administration in

determining eligibility for SSI. Therefore, that income cannot be considered as available to the benefit group;

(14) 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;

(15) Earnings of a child who is a full-time student are disregarded;

(16) The first \$50 of the current monthly child support paid by an absent parent. Only one disregard is allowed regardless of the number of parents paying or amounts paid. An additional disregard is allowed if payments for previous months were paid when due but not received until the current month;

(17) Government rental or housing subsidies by governmental agencies, e.g., HUD (received in-kind or in cash) for rent, mortgage payments or utilities;

(18) 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, and uniform allowances if the uniform is uniquely identified with company name or logo;

(19) Low Income Home and Energy Assistance Program (LIHEAP) and Energy Crisis Assistance Program (ECAP) payments;

(20) Advance payments of Earned Income Tax Credit (EITC) or refunds of EITC as a result of filing a federal income tax return;

(21) 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.);

(22) 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;

(23) 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;

(24) Interests of individual Indians in trust or restricted lands;

(25) Any home produce from garden, livestock and poultry utilized by the member and his/her household for their consumption (as distinguished from such produce sold or exchanged);

(26) Any payments made directly to a third party for the benefit of a member of the benefit group;

(27) Financial aid provided to individuals by agencies or organizations which base their payment on financial need;

(28) Assistance or services received from the Vocational Rehabilitation Program, such as transportation expenses to a rehabilitation center, extra clothing, lunches, grooming needed for a training program and any other such complimentary payments;

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(29) Payments made by a public or private non-profit child care agency for a child placed in foster care or subsidized adoption;

(30) Payments made to certain Vietnam veterans' children with spina bifida (PL 104-214);

(31) Payments made to certain Korea service veterans' children with spina bifida (PL 108-183);

(32) Payments made to the children of women Vietnam veterans who suffer from certain birth defects (PL 106-419);

(33) Additional payments of regular unemployment compensation in the amount of \$25 per week ending June 30, 2010, and any amount of emergency unemployment compensation paid through May 31, 2010, as authorized under the American Recovery and Reinvestment Tax Act of 2009; and

(34) Wages paid by the Census Bureau for temporary employment related to Census activities.

(f) **Income disregards effective ~~January~~October 1, 20142013.** For MAGI eligibility groups, whether a source of income is disregarded is determined in accordance with MAGI income counting rules in Part 6 of Subchapter 6 of this Chapter.

(g) In computing monthly income, cents will be carried at all steps until the monthly amount is determined and then will be rounded to the nearest dollar. These rounding procedures apply to each individual and each type of income. Income which is received monthly but in irregular amounts is averaged using two month's income, if possible, to determine income eligibility. Less than two month's income may be used when circumstances (e.g., new employment, unpaid sick leave, etc.) would indicate that previous income amounts would not be appropriate to use in determining future income amounts. Income received more often than monthly is converted to monthly amounts as follows:

(1) **Daily.** Income received on a daily basis is converted to a weekly amount then multiplied by 4.3.

(2) **Weekly.** Income received weekly is multiplied by 4.3.

(3) **Twice a month.** Income received twice a month is multiplied by 2.

(4) **Biweekly.** Income received every two weeks is multiplied by 2.15.

SUBCHAPTER 15. PERSONAL CARE SERVICES

317:35-15-6. Determining financial eligibility of categorically needy individuals

Financial eligibility for Personal Care for categorically needy individuals is determined as follows:

(1) **Financial eligibility/categorically related to AFDC prior to ~~January~~October 1, 20142013.** In determining income for the individual related to AFDC, all family income is considered. (See OAC 317:35-5-45 for Exceptions to AFDC rules.) The "family", for purposes of determining need, includes the following persons if living together (or if living apart but there has been no break in the family relationship):

(A) spouse; and

(B) parent(s) and minor children of their own.

(i) For adults, to be categorically needy, the net income must be less than the categorically needy standard as shown on the OKDHS form 08AX001E (Appendix C-1), Schedule X.

(ii) For individuals under 19, to be categorically needy, the net income must be equal to or less than the categorically needy standard as shown on the OKDHS form 08AX001E (Appendix C-1), Schedule I. A.

(2) **Financial eligibility for MAGI eligibility groups effective ~~January~~October 1, 20142013.** See MAGI eligibility rules in Subchapter 6 of this Chapter to determine financial eligibility for MAGI eligibility groups.

(3) **Financial eligibility/categorically related to ABD.** In determining income and resources for the individual related to ABD, the "family" includes the individual and spouse, if any. To be categorically needy, the countable income must be less than the categorically needy standard as shown on the OKDHS form 08AX001E (Appendix C-1), Schedule VI (QMBP standard). If an individual and spouse cease to live together for reasons other than institutionalization or receipt of the ADvantage waiver or HCBW/MR services, income and resources are considered available to each other through the month in which they are separated. Mutual consideration ceases with the month after the month in which the separation occurs. Any amounts which are actually contributed to the spouse after the mutual consideration has ended are considered.

(4) **Determining financial eligibility for Personal Care.** For individuals determined categorically needy for Personal Care, the member will not pay a vendor payment for Personal Care services.

SUBCHAPTER 19. NURSING FACILITY SERVICES

317:35-19-20. Determining financial eligibility of categorically needy individuals

Financial eligibility for NF medical care is determined as follows:

(1) **Financial eligibility/categorically related to AFDC prior to ~~January~~October 1, 20142013.**

(A) In determining income for the individual related to AFDC, all family income is considered. The "family", for purposes of determining need, includes the following persons if living together (or if living apart but there has been no break in the family relationship):

(i) spouse; and

(ii) parent(s) and minor children of their own.

(I) For adults, to be categorically needy, the net income must be less than the categorically needy standard as shown on the OKDHS Appendix C-1, Schedule X.

(II) For individuals under 19, to be categorically needy, the net income must be equal to or less than the categorically needy standard as shown on the OKDHS Appendix C-1, Schedule I. A.

(B) Individuals related to AFDC but not receiving a money payment are not entitled to one-half income disregard following the earned income deduction.

(2) **Financial eligibility for MAGI eligibility groups effective January 1, 2014**. See MAGI eligibility rules in Subchapter 6 of this Chapter to determine financial eligibility for MAGI eligibility groups.

(3) **Financial eligibility/categorically related to ABD.** In determining income and resources for the individual related to ABD, the "family" includes the individual and spouse, if any. If an individual and spouse cease to live together for reasons other than institutionalization, income and resources are considered available to each other through the month in which they are separated. Mutual consideration ceases with the month after the month in which the separation occurs. Any amounts which are actually contributed to the spouse after the mutual consideration has ended are considered. If the individual and spouse cease to live together because of the individual entering a nursing facility, see paragraph (3) of OAC 317:35-19-21 to determine financial eligibility.

(A) The categorically needy standard on OKDHS Appendix C-1, Schedule VI., is applicable for individuals related to ABD. If the individual is in an NF and has received services for 30 days or longer, the categorically needy standard in OKDHS Appendix C-1, Schedule VIII. B.1., is used. If the individual leaves the facility prior to the 30 days, or does not require services past the 30 days, the categorically needy standard in OKDHS Appendix C-1, Schedule VI., is used. The rules on determination of income and resources are applicable only when an individual has entered a NF and is likely to remain under care for 30 consecutive days. The 30-day requirement is considered to have been met even if it is interrupted by a hospital stay or the individual is deceased before the 30-day period ends.

(B) An individual who is a patient in an extended care facility may have SSI continued for a three month period if he/she meets conditions described in Subchapter 5 of this Chapter. The continuation of the payments is intended for use of the member and does not affect the vendor payment. If the institutional stay exceeds the three month period, SSI will make the appropriate change.

(4) **Transfer of capital resources on or before August 10, 1993.** Individuals who have transferred capital resources on or before August 10, 1993 and applying for or receiving NF, ICF/MR, or receiving HCBW/MR services are subject to penalty if the individual, the individual's spouse, the guardian, or legal representative of the individual or individual's spouse, disposes of resources for less

than fair market value during the 30 months immediately prior to eligibility for SoonerCare if the individual is eligible at institutionalization. If the individual is not eligible for SoonerCare at institutionalization, the individual is subject to penalty if a resource was transferred during the 30 months immediately prior to the date of application for SoonerCare. Any subsequent transfer is also subject to this policy. When there have been multiple transfers of resources without commensurate return, all transferred resources are added together to determine the penalty period. The penalty consists of a period of ineligibility (whole number of months) determined by dividing the total uncompensated value of the resource by the average monthly cost to a private patient in a nursing facility in Oklahoma. The penalty period begins with the month the resource or resources were first transferred and cannot exceed 30 months. Uncompensated value is defined as the difference between the equity value and the amount received for the resource.

(A) However, the penalty would not apply if:

- (i) The transfer was prior to July 1, 1988.
- (ii) The title to the individual's home was transferred to:

- (I) the spouse;
- (II) the individual's child under age 21 or who is blind or totally disabled;
- (III) a sibling who has equity interest in the home and resided in the home for at least one year prior to the individual's admission to the nursing facility; or
- (IV) the individual's son or daughter who resided in the home and provided care for at least two years prior to the individual's admission to the nursing facility.

(iii) The individual can show satisfactorily that the intent was to dispose of resources at fair market value or that the transfer was for a purpose other than eligibility.

(iv) The transfer was to the community spouse or to another person for the sole benefit of the community spouse in an amount equal to the community spouse's resource allowance.

(v) The resource was transferred to the individual's minor child who is blind or totally disabled.

(vi) The resource was transferred to the spouse (either community or institutionalized) or to another person for the sole benefit of the spouse if the resources are not subsequently transferred to still another person for less than fair market value.

(vii) The denial would result in undue hardship. Such determination should be referred to OKDHS State Office for a decision.

(B) The individual is advised by a written notice of a period of ineligibility due to transfer of assets. The notice explains the period of ineligibility for payment of NF and the continuance of eligibility for other SoonerCare services.

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(C) The penalty period can be ended by either the resource being restored or commensurate return being made to the individual.

(D) Once the restoration or commensurate return is made, eligibility is redetermined considering the value of the restored resource or the amount of commensurate return.

(E) The restoration or commensurate return will not entitle the member to benefits for the period of time that the resource remained transferred. An applicant cannot be certified for NF, ICF/MR, HCBW/MR, or ADvantage waiver services for a period of resource ineligibility.

(5) **Transfer of assets on or after August 11, 1993 but before February 8, 2006.** An institutionalized individual, an institutionalized individual's spouse, the guardian or legal representative of the individual or individual's spouse who disposes of assets on or after August 11, 1993 but before February 8, 2006 for less than fair market value on or after the look-back date specified in (A) of this paragraph subjects the individual to a penalty period for the disposal of such assets.

(A) For an institutionalized individual, the look-back date is 36 months before the first day the individual is both institutionalized and has applied for medical assistance. However, in the case of payments from a trust or portions of a trust that are treated as transfers of assets, the look back date is 60 months.

(B) For purposes of this paragraph, an "institutionalized" individual is one who is residing in an NF.

(C) The penalty period begins the first day of the first month during which assets have been transferred and which does not occur in any other period of ineligibility due to an asset transfer. When there have been multiple transfers, all transferred assets are added together to determine the penalty.

(D) The penalty period consists of a period of ineligibility (whole number of months) determined by dividing the total uncompensated value of the asset by the average monthly cost to a private patient in a nursing facility in Oklahoma. In this calculation, any partial month is dropped. There is no limit to the length of the penalty period for these transfers. Uncompensated value is defined as the difference between the fair market value at the time of transfer less encumbrances and the amount received for the resource.

(E) Assets are defined as all income and resources of the individual and the individual's spouse, including any income or resources which the individual or such individual's spouse is entitled to but does not receive because of action:

- (i) by the individual or such individual's spouse;
- (ii) by a person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or such individual's spouse; or

(iii) by any person, including any court or administrative body acting at the direction or upon the request of the individual or such individual's spouse.

(F) A penalty would not apply if:

(i) the title to the individual's home was transferred to:

- (I) the spouse;
- (II) the individual's child under age 21 or who is blind or totally disabled as determined by Social Security;
- (III) a sibling who has equity interest in the home and resided in the home for at least one year immediately prior to the institutionalization of the individual; or
- (IV) the individual's son or daughter who resided in the home and provided care for at least two years immediately prior to the individual's institutionalization.

(ii) the individual can show satisfactorily that the intent was to dispose of assets at fair market value or that the transfer was exclusively for a purpose other than eligibility. It is presumed that any transfer of assets made for less than fair market value was made in order to qualify the individual for SoonerCare. In order to rebut this presumption, the individual must present compelling evidence that a transfer was made for reasons other than to qualify for SoonerCare. It is not sufficient for an individual to claim that assets were transferred solely for the purposes of allowing another to have them with ostensibly no thought of SoonerCare if the individual qualifies for SoonerCare as a result of the transfer.

(iii) the transfer was to the community spouse or to another person for the sole benefit of the community spouse in an amount equal to the community spouse's asset allowance.

(iv) the asset was transferred to the individual's child who is blind or totally disabled as determined by Social Security. The transfer may be to a trust established for the benefit of the individual's child.

(v) the asset was transferred to or from the spouse (either community or institutionalized) or to another person for the sole benefit of the spouse if the assets are not subsequently transferred to still another person for less than fair market value.

(vi) the asset is transferred to a trust established solely for the benefit of a disabled individual under the age of 65.

(vii) the denial would result in undue hardship. Such determination should be referred to OKDHS State Office for a decision.

(G) The individual is advised by a written notice of a period of ineligibility due to transfer of assets. The notice explains the period of ineligibility for payment of NF and the continuance of eligibility for other SoonerCare services.

(H) The penalty period can be ended by either all assets being restored or commensurate return being made to the individual.

(I) Once the restoration or commensurate return is made, eligibility is redetermined considering the value of the restored asset or the amount of commensurate return.

(J) The restoration or commensurate return will not entitle the member to benefits for the period of time that the asset remained transferred. An applicant cannot be certified for nursing care services for a period of asset ineligibility.

(K) Assets which are held by an individual with another person or persons, whether held in joint tenancy or tenancy in common or similar arrangement, and the individual's ownership or control of the asset is reduced or eliminated is considered a transfer.

(L) When a transfer of assets by the spouse of an individual results in a period of ineligibility and the spouse who made such transfer subsequently becomes institutionalized, the period of ineligibility will be apportioned between the two institutionalized spouses.

(6) Transfer of assets on or after February 8, 2006.

An institutionalized individual, an institutionalized individual's spouse, the guardian or legal representative of the individual or individual's spouse who disposes of assets on or after February 8, 2006 for less than fair market value on or after the look-back date specified in (A) of this paragraph subjects the individual to a penalty period for the disposal of such assets.

(A) For an institutionalized individual, the look-back date is 60 months before the first day the individual is both institutionalized and has applied for medical assistance. However, individuals that have purchased an Oklahoma Long-Term Care Partnership Program approved policy may be completely or partially exempted from this Section depending on the monetary extent of the insurance benefits paid.

(B) For purposes of this paragraph, an "institutionalized" individual is one who is residing in an NF.

(C) The penalty period will begin with the later of:

(i) the first day of a month during which assets have been transferred for less than fair market value; or

(ii) the date on which the individual is:

(I) eligible for medical assistance; and

(II) receiving institutional level of care services that, were it not for the imposition of the penalty period, would be covered by SoonerCare.

(D) The penalty period:

(i) cannot begin until the expiration of any existing period of ineligibility;

(ii) will not be interrupted or temporarily suspended once it is imposed;

(iii) When there have been multiple transfers, all transferred assets are added together to determine the penalty.

(E) The penalty period consists of a period of ineligibility determined by dividing the total uncompensated value of the asset by the average cost to a private patient in a nursing facility in Oklahoma shown on OKDHS Appendix C-1. In this calculation, the penalty must include a partial month disqualification based upon the relationship between that fractional amount and the average cost to a private patient in a nursing facility in Oklahoma. There is no limit to the length of the penalty period for these transfers. Uncompensated value is defined as the difference between the fair market value at the time of transfer less encumbrances and the amount received for the resource.

(F) Assets are defined as all income and resources of the individual and the individual's spouse, including any income or resources which the individual or such individual's spouse is entitled to but does not receive because of action:

(i) by the individual or such individual's spouse;

(ii) by a person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or such individual's spouse; or

(iii) by any person, including any court or administrative body acting at the direction or upon the request of the individual or such individual's spouse.

(G) Special Situations.

(i) Separate Maintenance or Divorce.

(I) There shall be presumed to be a transfer of assets if an applicant or member receives less than half of the couple's resources pursuant to a Decree of Separate Maintenance or a Decree of Divorce.

(II) There shall be presumed to be a transfer of assets if the income is reduced to an amount lower than the individual's own income plus half of the joint income. The transfer penalty shall be calculated monthly.

(III) Assets which were exempt lose the exempt character when not retained by the applicant or member in the divorce or separate maintenance. These assets, if received by the other spouse, are counted when determining the penalty.

(IV) The applicant or member may rebut the presumption of transfer by showing compelling evidence that the uneven division of income or resources was the result of factors unrelated to SoonerCare eligibility.

(ii) Inheritance from a spouse.

(I) Oklahoma law provides that a surviving spouse is entitled to a minimum portion of a

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deceased spouse's probate estate. The amount depends on several factors.

- (II) It is considered a transfer if the deceased spouse's will places all, or some, of the statutory share the applicant or member is entitled to receive in a trust which the applicant or member does not have unfettered access to or leaves less than the statutory amount to the applicant or member, who does not then elect to receive the statutory share in probate proceedings.
- (H) A penalty would not apply if:
- (i) the title to the individual's home was transferred to:
 - (I) the spouse;
 - (II) the individual's child under age 21 or who is blind or totally disabled as determined by Social Security;
 - (III) a sibling who has equity interest in the home and resided in the home for at least one year immediately prior to the institutionalization of the individual; or
 - (IV) the individual's son or daughter who resided in the home and provided care for at least two years immediately prior to the individual's institutionalization.
 - (ii) the individual can show satisfactorily that the intent was to dispose of assets at fair market value or that the transfer was exclusively for a purpose other than eligibility. It is presumed that any transfer of assets made for less than fair market value was made in order to qualify the individual for SoonerCare. In order to rebut this presumption, the individual must present compelling evidence that a transfer was made for reasons other than to qualify for SoonerCare. It is not sufficient for an individual to claim that assets were transferred solely for the purposes of allowing another to have them with ostensibly no thought of SoonerCare if the individual qualifies for SoonerCare as a result of the transfer.
 - (iii) the transfer was to the community spouse or to another person for the sole benefit of the community spouse in an amount equal to the community spouse's asset allowance. "Sole benefit" means that the amount transferred will be used for the benefit of the community spouse during his or her expected life.
 - (iv) the asset was transferred to the individual's child who is blind or totally disabled as determined by Social Security. The transfer may be to a trust established for the benefit of the individual's child.
 - (v) the asset was transferred to or from the spouse (either community or institutionalized) or to another person for the sole benefit of the spouse if the assets are not subsequently transferred to still another person for less than fair market value. "Sole benefit" means that the amount transferred

will be used for the benefit of the spouse (either community or institutionalized) during his or her expected life.

- (vi) the asset is transferred to a trust established solely for the benefit of a disabled individual under the age of 65.
- (vii) the denial would result in undue hardship. Undue hardship exists when application of a transfer of assets penalty would deprive the individual of medical care such that the individual's health or life would be endangered; or of food, clothing, shelter, or other necessities of life.
 - (I) An undue hardship does not exist if the individual willingly transferred assets for the purpose of qualifying for SoonerCare services through the use of the undue hardship exemption.
 - (II) Such determination should be referred to OKDHS State Office for a decision.
 - (III) If the undue hardship exists because the applicant was exploited, legal action must be pursued to return the transferred assets to the applicant before a hardship waiver will be granted. Pursuing legal action means an APS referral has been made to the district attorney's office or a lawsuit has been filed and is being pursued against the perpetrator.
- (I) The individual is advised by a written notice of a period of ineligibility due to transfer of assets, a timely process for determining whether an undue hardship waiver will be granted and a process for an adverse determination appeal. The notice explains the period of ineligibility for payment of NF and the continuance of eligibility for other SoonerCare services.
- (J) The penalty period can be ended by either all assets being restored or commensurate return being made to the individual.
- (K) Once the restoration or commensurate return is made, eligibility is redetermined considering the value of the restored asset or the amount of commensurate return.
- (L) The restoration or commensurate return will not entitle the member to benefits for the period of time that the asset remained transferred. An applicant cannot be certified for nursing care services for a period of asset ineligibility.
- (M) Assets which are held by an individual with another person or persons, whether held in joint tenancy or tenancy in common or similar arrangement, and the individual's ownership or control of the asset is reduced or eliminated is considered a transfer. The exception to this rule is if ownership of a joint account is divided according to the amount contributed by each owner.
 - (i) Documentation must be provided to show each co-owner's contribution;

- (ii) The funds contributed by the applicant or SoonerCare member end up in an account owned solely by the applicant or member.
- (N) When a transfer of assets by the spouse of an individual results in a period of ineligibility and the spouse who made such transfer subsequently becomes institutionalized, the period of ineligibility will be apportioned between the two institutionalized spouses.
- (7) **Commensurate return.** Commensurate return for purposes of this Section is defined as actual money payment or documentation of money spent on the member's behalf; i.e., property taxes, medical debts, nursing

care expenses, etc., corresponding to the market value of the transferred property. The definition does not include personal services, labor or provision of rent-free shelter. It also does not include a monetary value assigned and projected for future payment either by cash or provision of services. Any transfer of property within the five years prior to application or during receipt of assistance must be analyzed in regard to commensurate return as well as determination of intent.

[OAR Docket #13-1221; filed 10-9-13]

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

1:2013-36.

EXECUTIVE ORDER 2013-36

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the authority vested in me by Sections 2 and 8 of Article VI of the Oklahoma Constitution and Title 27A O.S. Section 2250 et seq., do hereby declare the following:

Due to the current, and persistent, Emergency Drought Conditions in Texas, Harmon, Greer, Jackson, and Tillman Counties of Oklahoma, I hereby invoke the provisions of Oklahoma law regarding the use of the Emergency Drought Relief Fund.

It is hereby ordered:

1. An Emergency Drought Commission is to be immediately formed and shall exist for a period of one hundred and eighty (180) days. Upon expiration of its term, the Emergency Drought Commission shall cease to exist subject only to extensions granted by the Governor or a new declaration of Emergency Drought Conditions.
2. The Emergency Drought Commission shall consist of the Executive Director of the Oklahoma Conservation Commission, the Secretary of Agriculture and the Executive Director of the Oklahoma Water Resources Board.
3. The Emergency Drought Commission shall have the authority to consider requests for use of Emergency Drought Relief Funds only from public entities located, or operating, within one, or more, of the following Oklahoma counties: Texas, Harmon, Greer, Jackson, or Tillman. Further, the use of any Emergency Drought Commission funds pursuant to this declaration must be expended solely on efforts to relieve drought conditions within Texas, Harmon, Greer, Jackson, and/or Tillman Counties.
4. The Emergency Drought Commission shall have full discretion to determine the amount and nature of the expenditures to be made from the Emergency Drought Relief Fund, subject to written concurrence by the Governor. Further, the Emergency Drought Commission shall establish

such procedures and requirements as it deems necessary. The Commission shall have the sole power to determine the appropriate agency or entity to receive Emergency Drought Relief Funds.

5. The Chair of the Emergency Drought Commission shall be the Secretary of Agriculture who will have the sole power to call meetings of the Commission, as necessary. The Commission shall be provided support staff from the Oklahoma Department of Agriculture. The Chair of the Emergency Drought Commission shall also have the sole discretionary power to terminate the Commission.

This declaration may be amended as conditions warrant.

This Executive Order shall terminate at the end of one hundred and eighty (180) days.

Copies of this Executive Order shall be distributed to the Executive Director of the Oklahoma Conservation Commission, the Secretary of Agriculture and the Executive Director of the Oklahoma Water Resources Board, 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 15 day of October, 2013.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Chris Morriss
Assistant Secretary of State

[OAR Docket #13-1240; filed 10-15-13]

**TITLE 265. STATE FIRE
MARSHAL COMMISSION
CHAPTER 50. FIRE EXTINGUISHER
INDUSTRY**

NOTICE OF TRANSFERRED RULES:

Effective 11-1-13, "all administrative rules promulgated by the State Board of Health relating to the Fire Extinguisher Licensing Act [have been] transferred to and [have] become a part of the administrative rules of the State Fire Marshal Commission" [Laws 2013, c. 111, § 1(G)]. As directed, the Office of Administrative Rules has transferred and renumbered the sections from Chapter 451 of the State Board of Health's rules in the Oklahoma Administrative Code [OAC 310:451] to a new Chapter 50 in the State Fire Marshal Commission's rules [OAC 265:50]. These rules "shall continue in force and effect as rules of the State Fire Marshal Commission from and after [November 1, 2013], and any amendment, repeal or addition to the transferred rules shall be under the jurisdiction of the Oklahoma Fire Marshal Commission" [Laws 2013, c. 111, §1(G)].

**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 451. FIRE EXTINGUISHER
INDUSTRY**

NOTICE OF TRANSFERRED RULES:

Effective 11-1-13, "all administrative rules promulgated by the State Board of Health relating to the Fire Extinguisher Licensing Act [have been] transferred to and [have] become a part of the administrative rules of the State Fire Marshal Commission" [Laws 2013, c. 111, § 1(G)]. As directed, the Office of Administrative Rules has transferred and renumbered the sections from Chapter 451 of the State Board of Health's rules in the Oklahoma Administrative Code [OAC 310:451] to a new Chapter 50 in the State Fire Marshal Commission's rules [OAC 265:50]. These rules "shall continue in force and effect as rules of the State Fire Marshal Commission from and after [November 1, 2013], and any amendment, repeal or addition to the transferred rules shall be under the jurisdiction of the Oklahoma Fire Marshal Commission" [Laws 2013, c. 111, §1(G)].
